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THE STATE OF WASHINGTON

Office of Financial Management

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Report on Issues Related to Risk-Based Audits of the
State's Personal Service and Client Service
Contracting Practices

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Washington State Office of Financial Management

Report on Risk-Based Audits of the State's Personal Service and Client Service Contracting Practices

Executive Summary

Introduction

We are pleased to present this report on issues regarding state personal service and client service contracting practices. Miller & Miller Consulting Services, P.S. was engaged by the Office of Financial Management (OFM) to conduct this project, which addresses several aspects of contracting for these types of services by the State of Washington.

The Scope and Methodology section of this report provides a summary of the activities involved in this project and is important in understanding the purpose of the project and how the recommendations were developed. The purpose of the project was to conduct limited risk-based audits of management control systems over contracting for client service and personal service contracts with four state agencies and two contractors with multiple state contracts. The four state agencies are the Department of Social and Health Services (DSHS), The Department of Health (DOH), the Department of Corrections (DOC), and Department of Community, Trade and Economic Development (CTED). The two contractors selected were Catholic Community Services of Western Washington and the Yakima Valley Farm Workers Clinic. The audits were designed to determine state agency compliance with the Guide to Client Service Contracting issued in December 2000 and the Guide to Personal Service Contracting revised and issued in April 2001 (collectively referred to as the guidelines).

Assessment

This project produced the following broad conclusions:

- General awareness of the guidelines, contracting risks, use of performance-based contracts, and attendance at contract training has improved in the last year.
- A high degree of compliance exists with most of the contract provisions portion of the guidelines, as this is still viewed as the main risk management mechanism available to contract managers. As a result, risk assessments linked to monitoring plans, evaluations of contractor-specific information, and other risk management techniques continue to be underutilized.
- Agency implementation of policies and procedures to comply with the guidelines by the state agencies has begun, but progress on full

implementation is slow. Documentation requirements continue to be unstructured.

Recommendations

Our recommendations are fully described in the first section of this report. In summary, we recommend that:

- State agencies develop more structure to contracting and contract documentation practices in order to comply with the guidelines.
- State agencies adopt the identified best contract management practices discussed in the Results section of this report, to the extent feasible.
- State program or contract managers obtain and analyze information identifying all federal and state funds received by the contractor to determine potential service overlap or duplicate billing risks.
- State program and contract managers analyze whether the nature of their program would encourage a contractor to vary from federal cost allowability requirements.
- State agencies implement procedures that control contract execution after the beginning of the stated contract term.

Other Information Contained in this Report

The Project Results section provides results of the review of contracts for compliance with the guidelines. The results and conclusions are made for the contracting process as a whole. In addition, results and conclusions for each agency are contained in separate sections. Summaries of individual instances of noncompliance have also been listed in Exhibit A to this report.

In addition to the current year results, this project requires an update of the results from last year's project. A status of prior recommendations has been included in a separate section of this report.

We wish to thank OFM, agency management and staff, and the two contractors' management and staff for the outstanding level of support and assistance provided in this project. We also appreciate the willingness of the state agency staff and management to engage in this process. For the most part, we found contracting staff and management to be highly concerned with doing the right job.

June 6, 2002

Recommendations

Introduction

This section accumulates recommendations suggested throughout this report. Recommendations are focused on improving compliance with the guidelines. This report contains a separate section that briefly updates the status of the prior year's recommendations. We have not restated recommendations from that section that continue to be valid in this section.

These recommendations are made based upon the results of reviewing contract files, contractor records, interviews, and risk assessments. We have also considered the impact of recent legislation in making these recommendations. We also held several contractor-specific focus groups. Several interesting points and recommendations were raised during these sessions. A few of the more significant suggestions have been provided at the end of this section.

Recommendations

We make the following recommendations to enhance the contract management practices of the state:

- **Contract Documentation:** State agencies need to develop more structure to contracting and contract documentation practices in order to comply with Senate Bill 5629 passed by the 2002 Legislature. Documenting judgments and decisions within the contract files will be the most significant cultural change required. This would include documenting decisions regarding which portions of the guidelines do not apply to specific contracting situations. The contract file documentation checklist contained in the guidelines would be useful for this purpose. Those agencies operating in a decentralized manner with regard to contract administration may want to reconsider whether certain functions should be consolidated to provide uniform coverage of contract risks and requirements.
- **Utilize Best Practices:** We encourage state agencies to adopt the identified best contract management practices discussed in the Results section this report, to the extent feasible. These recommendations provide for the most effective and efficient means to fully implement procedures necessary to demonstrate compliance with the guidelines. These practices also address the gaps in procedural control noted in many areas of this report. The responsibility for decisions regarding which best practices to implement should be fixed in one person or a small group of individuals in each agency.
- **Fund Sources:** State program or contract managers should obtain and analyze information identifying all federal and state funds received by the contractor and coordinate issues, as appropriate, with other funding

sources. OFM's guidelines address this. Information should be sufficient to determine whether any potential overlap of services paid from multiple sources exists. Potential areas of overlap should be addressed by a clear statement of work that distinguishes services paid under one contract from services paid under another contract. In addition, state program or contract managers should request information about related party transactions that provides sufficient evidence that grants and contracts are accorded fair treatment in the recovery of actual costs. Entities can be "related" through a variety of mechanisms, including common control. Related party transactions generally refer to transactions with an entity that controls or can significantly influence the management or operating policies of the other entity to the extent it might be prevented from fully pursuing its own separate interests. This recommendation could be accomplished by a revision to contractor intake forms, an addition to the application process or using other procurement-related means.

- **Federal Cost Allowability:** Certain Federal programs establish broadly stated goals and provide for a wide range of eligible activities including support for other related programs. State contract and program managers should understand whether the nature of their program would encourage a contractor to vary from federal cost allowability requirements. If such risk is present, the contract and program manager should discuss the situation with the contractor and make modifications to the scope of work and/or the contractor's cost allocation methodology to resolve potential conflicts.
- **Contract Execution:** Agencies should implement procedures that control contract execution after the stated contract start date.

Other Recommendations Raised in the Focus Group Sessions

Throughout this project, ideas were raised by the interview and focus group activities. These ideas are worth mentioning as potential recommendations. We recommend that OFM and agencies consider the following recommendations:

- Agency-specific contracts training should be provided. Specific training sessions could be jointly developed between OFM and the agency. Other training on specific topics in the guidelines could improve the depth of learning.
- Each agency should clearly communicate its expectations for contract file documentation. Contract managers need a "translation" of what aspects of the guidelines need to be documented in the contract files.
- OFM's client services contract database is limited in the information necessary to conduct a risk assessment. Information about audit results, planned audits or monitoring results would be very helpful to contract managers.
- Instructions to contractors' auditors about blended funding, duplicate billing or cost allocation abuses would provide better value to the state.

In general, the focus groups were beneficial in understanding the risks associated with a specific contractor, the experience of different agencies with contractors and contract issues, and determining areas of potential overlap of contracted services. More cross-agency communication and coordination could improve the agencies' contracting effectiveness.

Summary of Agency Results

Summary

Agencies have established various methods and processes to manage risks inherent in contracting. There is a high percentage of compliance with portions of the guidelines. Other areas of the guidelines are not well documented. State agencies continue to struggle with the concept of risk assessment, obtaining necessary information to conduct appropriate risk assessments, and how to manage risks. General awareness of the guidelines and training attendance has improved over the past year. Contract monitoring has begun to utilize risk concepts and performance-based contracting is increasing in use. While significant improvement in risk management is evident, there is much more the state can do to improve contract-related risk management practices. With the recent passage of SB 5629, state agencies will need to establish more formal procedures and documentation requirements to assure full compliance with the guidelines.

Compliance with the Guidelines

Most of our effort involved in this project was the review of contract files to determine how closely the guidelines were followed. Since the personal service contracting guidelines, regulations, and OFM review and approval processes are well ingrained, we expected compliance with the requirements. Since the client service contracting guidelines are new, have no regulatory backing, and were recently issued, we expected less compliance with the guidelines. As a result, the emphasis of our efforts was directed to client service contracts. More specifically, we focused our efforts on determining the level of compliance for the client service contracts executed after July 1, 2001. We selected 58 client service contracts and 6 personal service contracts for review. The client service contracts reviewed represent 30% of the contract values for all contracts containing maximum considerations for all four agencies. Because a high percentage of contracts are listed as "Fee-for-Service" contracts, the total value of contracts reviewed in comparison to all client service contracts is substantially less than 30%. While the level of compliance varied from contract to contract, the following general conclusions are supported by the underlying individual data.

Results

The four agencies appear to have appropriate control environments and have established appropriate organizational structures to effect control over agency contracting. Except for DOH that has centralized many of the contract approval functions, the agencies manage contracting in a

decentralized manner. Because of these structures, contractor specific information is not uniformly obtained prior to executing contracts.

Pre-Contract Planning

Unless the contracts related to a large and highly visible program, pre-contract planning was sparsely documented. Most contract files (86%) contained evidence of funding availability and the type of appropriation but rarely (5%) documented the cost versus benefit of contracting. The degree of compliance with documenting available public resources, legal constraints to contracting, and contracting with current or former state employees depended upon whether a contract processing action form or contractor intake form contained these questions. Those agencies that had designed their forms to include this information had a much higher level of compliance than agencies that did not provide a structure for these decisions to be documented. The independent contractor relationship deserves the most attention in pre-contract planning documentation. While a clause in the contract clearly specifying the contractor relationship is contained in most if not all contracts, this may not be sufficient to minimize the risk from IRS scrutiny. Only 5% of the contract files documented the analysis of this issue. However, since our sample was designed to capture large contracts, we considered this attribute to be not applicable for the files we reviewed.

Pre-Contract Considerations

The three main areas of guidance related to pre-contract considerations were typically documented in the contract. These three areas were method of compensation and billing matters; federal requirements including subrecipient or vendor determination; and audit requirements. While we only found a few cases where documentation of fiscal considerations was made prior to contract execution, we found no instance where the compensation method appeared inappropriate in relation to the nature of the service provided. We considered this acceptable evidence that some degree of appropriate fiscal considerations was made prior to executing the contract. While it was difficult for us to challenge whether the appropriate determination was made between a subrecipient and a vendor with federal funds, the decision was documented in the contract documents in 70% of the applicable client service contracts reviewed. Coverage of existing audits was considered in 47% of the files. This consideration was almost always covered in client service contracts by a clause requiring audits if the contractor meets the single audit requirements. Audit requirements were rarely used in personal service contracts.

Contractor Screening and Selection

Many contracts selected were composed of renewed client service contracts from previous procurements. Competition is not required for client service contracting, but is used as the agency considers appropriate. As such, there was not an abundance of evidence of competitive procurements. There were 14 instances (24%) of competitive selection processes documented in the files. There were 15 files (26%) that documented sole source, or used an application process to award the contract. The remaining 29 files (50%) were not competitively procured and contained no documentation as to judgments

made regarding the appropriateness of the selection method. The documentation of how the solicitation was advertised or how the successful vendor was selected was documented in most of the 14 competitive procurements. In a few cases, this type of documentation was not contained in the contract files reviewed but is likely contained in other files. The 50% compliance rate is an improvement over last year's audit results. However, that may be due as much to the focus on large contracts in the current audit as it is due to changes in contracting behavior.

The guidelines provide the following criteria for screening/selecting contractors.

- The contractor has the appropriate experience, staffing, technical qualifications, and facilities (including any subcontractor arrangements).
- The contractor is able to comply with the proposed or required time of delivery or performance schedule.
- The contractor has adequate administrative and financial capability for performance.
- The contractor has a satisfactory record of integrity, judgment, and performance.
- The contractor is otherwise qualified and eligible to receive a contract under applicable laws and regulations.
- If the contract will be funded with federal money, the contractor cannot be on the federal suspended/debarred list, which identifies contractors who cannot be given federally funded contracts.

Regardless of whether a contract is competitively bid, we believe it is very important to document these criteria in the contract files. If these items have been considered in procurements from previous years, we believe it is important to carry over this information into the current contract files. As noted above, the following guidance was not included in 50% of the contract files. In our opinion, this lack of documentation creates risk to the state.

We have concluded in this report that the up-front risk assessment of programs, contractors, and agency capabilities is not understood well by state agencies. Most contract managers only think of risk assessment in the context of contract monitoring. If these risk factors were better assessed, documented, and challenged prior to entering into contracts, we believe contract-related risks to the state would be greatly diminished. Of course, no amount of documentation and screening can completely avoid risk to the state. However, if the focus was shifted from using risk assessments as a tool to determine monitoring, to a tool to determine risks when initiating contracts, more risks could be addressed in contract negotiations and contract writing. The same risk assessment could be used to develop monitoring plans. While a departure from the standard operating procedure, this shift should increase both effectiveness and efficiency over time.

The guidelines suggest that the contractor should provide evidence of the appropriate licenses, registrations and certifications that would apply to the specific contracted services. Once again, while we found some evidence that

this review is occurring in the contract monitoring process or as a contract requirement, it is not common to require this evidence prior to contracting.

Contract Provisions

The contract provision section of the guidelines was the most consistently applied. While each agency, division, administration, council and other subgroup had its own standard contract language; the contracts complied with most of the recommended contract language included in the guidelines. The areas with the most consistent compliance were the remedies, sanctions and contract termination provisions. While there were many different versions of "hold harmless and indemnification" provisions, this clause was typical. We noted no issues with the scope of work or payment methods selected. Most contracts were executed after the contract term began, but with very minor exceptions, amendments were executed prior to the termination date of the original contract. In some cases, the difference was only a few days, in other cases, a few months.

Performance measures were delineated in 59% of the files. The performance measures varied widely, from a simple status report to complex measurement systems.

The one area of significant exception to the guidelines was the insurance requirement. These were either nonexistent or only addressed either industrial insurance or general liability or professional liability provisions in 53% of the files reviewed.

31% of the contracts did not include a clear statement that payment will not be made for the same or similar services paid under another contract. A similar result (29%) was noted where contracts did not identify the source and amounts of funds.

Risk Assessment, Contract Monitoring and Audit

Several divisions of agencies had well-developed monitoring plans derived directly from federal monitoring requirements. Some of the monitoring plans were developed with risk concepts in mind. Others had no formal monitoring plan or the plan was not developed with a formal risk assessment. We found that contract monitoring, while generally understood as important, was not directly linked to a formal risk assessment. This is caused by a variety of factors.

- Risk assessment may be intuitive to a few experienced contract managers, but is unknown territory to the less experienced. Regardless of experience, documentation of the linkage between risk assessment and contract monitoring is not developed 88% of the time. However, the 12% of contract files that did contain risk assessments was an improvement from last year.
- Risks of personal service or client service contracts were either not understood or not the focus of daily contract activities. Contract staff are beginning to consider what could go wrong with their contracts and, as a result, in some cases are devising plans to manage those risks.

We found evidence that the capability to link risk assessments, caused by a formal pre-contract risk assessment, to effective contract clause modification and contract monitoring exists within the state. This is exactly the type of linkage we suggest would best benefit the state in its overall contracting risk management program.

A centralized audit review function seems to work well within the state's culture. As long as there is good information and communication of those contractors requiring audits, the centralized concept, that leverages audit report review expertise, seems to be an effective model for those agencies that can afford such separate expertise. For the two agencies that are structured in this manner, they were able to demonstrate a 91% compliance rate with the guidelines regarding obtaining and evaluating contractor audits. This is compared to a 6% compliance rate for those agencies that did not manage audits in a centralized fashion.

Overall, the agencies subject to this review were well versed in their monitoring responsibilities. They compared payments to services provided, required progress reports, and generally ensured that services were provided as required under the contract. The lack of linkage to risk assessments, however, leaves these agencies open to deficiencies in the completeness of the monitoring program. One area needing special attention was to identify all federal and state funds received by the contractor. We noted that this was accomplished in only 14% of the files reviewed.

Post Contract Follow Up

Since all of the contracts reviewed were continuing contracts or newly issued contracts that had not been completed, we were not able to determine whether the post-contract follow-up guidelines were followed.

The accumulation of the specific results of the review of individual contracts is provided in Exhibit A to this report. Summaries of agency-specific results are contained in the following sections of this report.

Analysis of the Results in Relation to Senate Bill 5629

The 2002 Washington State Legislature enacted SB 5629 adding a new section to chapter 39.29 RCW that addresses the guidelines. A portion of that legislation is as follows:

"(1) The office of financial management shall adopt uniform guidelines for the effective and efficient management of personal service contracts and client service contracts by all state agencies. The guidelines must, at a minimum, include:

- (a) Accounting methods, systems, measures, and principles to be used by agencies and contractors;*
- (b) Precontract procedures for selecting potential contractors based on their qualifications and ability to perform;*

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- (c) Incorporation of performance measures and measurable benchmarks in contracts, and the use of performance audits;*
- (d) Uniform contract terms to ensure contract performance and compliance with state and federal standards;*
- (e) Proper payment and reimbursement methods to ensure that the state receives full value for taxpayer moneys, including cost settlements and cost allowance;*
- (f) Postcontract procedures, including methods for recovering improperly spent or overspent moneys for disallowance and adjustment;*
- (g) Adequate contract remedies and sanctions to ensure compliance;*
- (h) Monitoring, fund tracking, risk assessment, and auditing procedures and requirements;*
- (i) Financial reporting, record retention, and record access procedures and requirements;*
- (j) Procedures and criteria for terminating contracts for cause or otherwise; and*
- (k) Any other subject related to effective and efficient contract management.*

(2) The office of financial management shall submit the guidelines required by subsection (1) of this section to the governor and the appropriate standing committees of the legislature no later than December 1, 2002.

(3) The office of financial management shall publish a guide book for use by state agencies containing the guidelines required by subsection (1) of this section.

Sec. 8. A new section is added to chapter 39.29 RCW to read as follows: (1) A state agency entering into or renewing personal service contracts or client service contracts shall follow the guidelines required by section 7 of this act. (2) A state agency that has entered into or renewed personal service contracts or client service contracts during a calendar year shall, on or before January 1st of the following calendar year, provide the office of financial management with a report detailing the procedures the agency employed in entering into, renewing, and managing the contracts. (3) The provisions of this section apply to state agencies entering into or renewing contracts after January 1, 2003."

To implement this legislation OFM will be issuing changes to its State Accounting and Administrative Manual. Section 16.10, General Policies for Client Service Contracting, is a new policy and sections 15.10, 15.20, and 15.30 are being revised.

Recommendation: Based upon the results of this review, state agencies will need to develop more structure to contracting and contract documentation practices in order to comply with this new legislation. Documenting

judgments and decisions within the contract files will be the most significant cultural change required. This would include documenting decisions regarding which portions of the guidelines do not apply to specific contracting situations. Those agencies that operate in a decentralized manner with regard to contract administration may want to reconsider whether certain functions should be consolidated to provide uniform coverage of contract risks and requirements.

Best Contracting Practices

To assist agencies with addressing the new requirements, we offer the following, which we consider to be the best contracting practices observed during this review.

Pre-Contract Planning:

The DOH Contract Processing Action Request form is a good tool for documenting pre-contract planning. It covers the required elements contained in the guidelines. A central contract office reviews the form and is able to determine the adequacy of pre-contract planning documentation. This process also aids in the determination of whether a contract should be considered a personal service or a client service contact.

Pre-Contract Considerations:

The face sheet of the standard DOH contract requires documentation of the source of funds, the Federal CFDA number, appropriation information and the sub-recipient classification.

Pre-contract audit coverage evaluation was much better documented when a central audit review function existed (i.e., CTED and DOH). Including a name and mailing address for the contractor's audit report within the contract provisions can assure better compliance with the audit request.

Contract Provisions:

Certain divisions within DSHS had excellent insurance clauses in their contracts. These provisions were more comprehensive than the guidelines. Both CTED and certain divisions within DSHS had a high compliance rate with the contract provision that addressed duplicate payment provisions. Once again, because of its requirement to place the source of funds on the contract face sheet, DOH had the highest rate of compliance with this guideline.

Risk Assessment, Contract Monitoring and Audit:

Certain divisions within DSHS had excellent examples of risk assessments linked to monitoring plans. The DSHS Central Contract Services office has been working on the monitoring function for DSHS and should be able to share their experience with other state agencies. All of the agencies had good examples of monitoring within their agency. Agencies continue to

struggle with identifying all federal and state funds received by the contractor. However, OFM provided a Funding Disclosure Report used by the Office of the Superintendent of Public Instruction (OSPI), which we highly recommend. Once again, CTED and DOH did an excellent job documenting the review of contractor audit reports.

Contractor Review Results

Summary

The two contractors selected by OFM were Catholic Community Services of Western Washington (CCS) and Yakima Valley Farm Workers Clinic (YVFWC). Each contractor had systems in place to separately account for each grant or contract, whether awarded directly from the Federal government, the state, via pass-through from the Federal government or state funded and local sources, via pass-through from the Federal governments, state pass-through of Federal funds, state funded or locally funded. The results of the review support the need for the guideline portions that address scope of work clarity and obtaining other funding source information from contractors.

While a sample of two contractors should not drive state contracting policy, the results indicate that a large contractor managing multiple state contracts is not necessarily a higher risk to the state. Managing multiple state contracts is widely viewed as an increased contracting risk factor because of the potential for duplicate or blended funding issues. Our results indicate that the experience of the contractor and the systems they use to manage multiple contracts is a more important indicator of risk to the state.

Clarity of the scope of work in addressing potential overlap in services can only be accomplished if all funding sources are known, and understood by the contract manager. Also self-dealing or “related party transactions” should be clearly explained prior to executing a contract. Obtaining this information is noted as an area needing improvement in agency contracting management processes.

Results

Each contractor selected by OFM had systems in place to separately account for billings and costs charged to each contract. These contractors used a general ledger account coding system to segregate charges and billings to separate contracts. Each utilized a reasonable cost allocation methodology and could produce documentation regarding how it was applied to the various state contracts. However, since many of the contracts’ payment methods were not structured as cost reimbursement, the systems used to accumulate and allocate costs were not relevant to most contracts. We found no duplicate billings in our test samples. However, there was an issue regarding one potential duplicate billing at YVFWC. This issue was adequately explained, but provided the source of our recommendation discussed below.

Recommendation: State program or contract managers should request information about related party transactions that provides sufficient evidence that grants and contracts are accorded fair treatment in the recovery of actual costs. This could be accomplished by a revision to contractor intake

forms, an addition to the application process or use of other procurement-related means.

CCS has many “related party transactions”. These are transactions that are conducted with organizations that are separate but related through common ownership or common control. For example, rent cost allocated to various programs would be paid to an organization related to CCS. Based on our discussions with responsible officials, these related party transactions are reasonable in that they do not inflate the actual cost of providing services to various programs, and in certain situations, related party transactions provided significant cost savings to the program. Obtaining an audit report might address the information needs of contract managers in assessing the risk of overcharges from related party transactions. A more reliable method would be to request information about related party transactions that would be included in the costs charged to a contract from the contractor with evidence that the costs charged are reasonable in the application, contractor intake or other procurement process.

Recommendation: State program or contract managers should request information identifying all federal and state funds received by the contractor and coordinate with other funding sources, as contained in OFM’s guidelines. Information should be sufficient to determine whether any potential overlap of services paid from multiple sources exists. Potential areas of overlap should be addressed by a clear statement of work that distinguishes services paid under one contract from services paid under another contract.

YVFWC had two issues of relevance to this project. Both issues related to clarity of scope of work. One issue related to a potential duplicate billing issue was detected by DSHS monitoring. It related to counseling services included in the fee paid by the contract under review, with a potential duplication of fees paid under a Regional Support Network (RSN) for mental health. Based on our discussion with the YVFWC program manager, the services provided under the contract were different than the services provided under the RSN contract. As such, an actual duplication of services did not occur. However, we recommend that the scope of work distinguish the services based upon the qualifications for staff performing the services, as this is a clear indication of the level of service provided by each contract. The scope of work could specify that “therapeutic services performed by a mental health professional (MHP) as defined by WAC (insert pertinent WAC requirement) is not included in the fee for counseling services under this Behavioral Rehabilitation Services contract.” Once again, this points to the need for contract managers to obtain an understanding of all program funding received by a contractor so these definitional issues can be addressed.

Recommendation: Certain Federal programs establish broadly stated goals and provide for a wide range of eligible activities including support for other related programs. State contract and program managers should understand whether the nature of their program would encourage a contractor to vary from federal cost allowability requirements. If such risk is present, the contract and program manager should discuss the situation with the

contractor and make modifications to the scope of work and/or the contractor's cost allocation methodology to resolve potential conflicts.

The other issue from our work with YVFWC related to the scope of work and how that impacted the cost allocation methodology employed by the contractor. YVFWC applies costs mostly in a direct manner, such as salary costs determined by time records or direct assistance payments. However, some costs are allocated to various programs in a variety of methods. One such type of cost is general management, which is applied to departments across the entire organization using a reasonable cost allocation method. Once the department receives the allocation, it is reviewed against administration cost limits in each grant to determine how the management cost will be applied to various programs. Once this cost is applied to each program, it is allocated to individual grants using a reasonable allocation method. The second step in this three-step process causes concern because it may not be in accordance with Federal cost allowability guidelines.

As previously stated, the first and third step appeared to be reasonable methodologies. Because of the second step, the CsBG contract issued by CTED receives more than its apparent "fair share" of these general management costs. YVFWC stated that the purpose of the CsBG contract is to provide support for qualifying activities conducted under other grants. Based upon a previous conversation with the CsBG program manager at CTED, this is consistent with the CsBG goals as managed by CTED. While the judgmental application of general management costs to CsBG may be consistent with the overall goals and objectives of the CsBG program, the method used to accomplish this may place the state at risk for disallowed costs from the Federal program. A similar situation could occur with other Community Action Agencies that administer the CsBG program. Therefore, we recommend that responsible officials from CTED discuss how the scope of work could be modified to specifically allow for a larger share of general management costs, and how the current methodology should be changed to reduce the risk of disallowed costs.

Status of Prior Year Results and Recommendations

We made several recommendations in our prior year's project. This section provides a brief status report of those recommendations.

- Implementation efforts were noted as duplicative or have not begun. We recommended that OFM and state agencies work together to coordinate efficient and effective implementation of the guidelines. This coordination would initiate activities where no implementation action has begun and minimize the current duplication of efforts where changes have begun. **UPDATE:** This continues to be a valid recommendation based upon the results of the current year review.
- Pre-contract risk assessments and contractor screening activities are either not done or not documented. We recommended that OFM place more emphasis on training and tool development for risk assessment and pre-contract screening activities. The agencies should put policies and procedures in place to enhance risk assessment and pre-contract screening activities. **UPDATE:** We have noted that DSHS has made the most progress in this area. However, this continues to be a valid recommendation based upon the results of the current year review.
- The guidelines are clearly laid out following the natural contracting order and this format should be retained. However, adding a sense of priorities, combined with an explanation as to why the priorities were established, should improve the overall effectiveness of the guidelines. **UPDATE:** Agency staff expressed concern that priorities may be different for each agency and thus should not be set by OFM in the guidelines.
- OFM should develop an alternative to a full reading of the guidelines and provide it to all contracting staff. An example of such a quick reference guide was provided in the exhibits to the prior year report. **UPDATE:** Agency staff expressed concern that a quick reference guide would discourage a full reading of the guidelines or would result in a lack of clear understanding of the issues.
- Criteria provided in the guidelines to determine whether a contract is a personal service, client service, or purchased service is good. Additional emphasis and direction on the definitions could be provided. **UPDATE:** Additional definitions and information was included in the guidelines. Contract staff suggested that difficult examples be provided in the guideline to illustrate how the criteria can be used.
- Several recommendations about risk assessment, accounting for contracts and insurance clauses needs to be added to the training

program. **UPDATE:** These comments did not reoccur this year. As such training was appropriately modified.

- The nature of the contracting roles and responsibilities is very compartmentalized. Agencies should consider ways to improve coordination between these contracting roles and responsibilities or consider ways to reduce the fragmentation of contracting duties, when possible. **UPDATE:** This continues to be a valid recommendation based upon the results of the current year review.
- The central contract functions, as well as individual contract managers, should be wary of personal service contracts with maximums set at \$4,999 or \$19,999 that may be so priced to avoid OFM filing and review requirements. **UPDATE:** We found fewer of these situations during our current year review.
- The insurance requirements in contracts were either nonexistent or only addressed either industrial insurance or general liability or professional liability provisions. We recommended that agencies place contract clauses, related to insurance requirements, into their standard contracts. **UPDATE:** This continues to be a valid recommendation based upon the results of the current year review.

Scope and Methodology

Background

In response to concern about state agency contracting practices, the 1998 Washington State Legislature directed the Office of Financial Management (OFM) to convene a task force and conduct a study of state contracting for social services. The Task Force on Agency Vendor Contracting Practices met for a period of 15 months to study the issue and submitted a final report to the Legislature on November 1999. The report is available at: <http://www.ofm.wa.gov/contracting/finalreport.pdf>. The 2000 Washington State Legislature directed the OFM to implement certain recommendations included in the Task Force report.

The Legislature directed, in part:

"The office of financial management shall conduct risk-based audits of the contracting practices associated with individual personal service and client service contracts from multiple state agencies to ensure compliance with the guidelines established in this subsection. The office of financial management shall forward the results of the audits conducted under this subsection to the governor, the appropriate standing committees of the legislature, and the joint legislative audit and review committee."

The first risk-based audit was completed in spring 2001, and identified several areas of improvement for the three state agencies audited.

Scope of Work

In requesting this project, OFM described this project as follows:

"The contractor selected under this solicitation shall provide services in two phases:

Phase 1:

- A. Identify personal service and client service contracts to audit state agency compliance with the contract guidelines issued by OFM, using OFM's Personal Service and Client Service Contracting Risk Assessment tool. The contractor shall select from the population a sample of contracts awarded by the state agencies after March 1, 2001. The contractor shall use the audit program developed from the previous risk-based audit, adding procedures to incorporate additional elements from the guidelines as considered necessary. The client service contracting guidelines were published in December 2000 (<http://www.ofm.wa.gov/psc/cs-guide.htm>), and the personal service

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contracting guidelines were re-issued in April 2001 (<http://www.ofm.wa.gov/psc/psctoc.htm>).

- B. As follow up on the previous risk-based audit, the contractor shall review the 2001 audit report and follow up on actions taken to address issues identified in that report.
- C. Review the list of contractors, to be provided by OFM, that have client service contracts with multiple state agencies. In consultation with OFM, select the contractor(s) and contracts to include in the audit review.

Phase 2:

- A. Conduct a limited risk-based audit of the selected contracts at four state agencies to determine the degree of compliance with the guidelines, utilizing the audit program developed in Phase 1. Risk-based audits for the purpose of this contract shall focus on management and fiscal control over contracting for client service and personal service contracts. Three of the state agencies shall be the same agencies audited last year, and the fourth agency will be determined by OFM.
- B. The contractor shall also review a limited number of client service contractor records. Client service contractor(s) to be selected by OFM will be one(s) that have client service contracts with multiple state agencies. The review shall cover payments made to contractors by state agencies to determine if there is a clear indication that costs paid by the state are attributable to the state agency's contract. The review shall consider whether the contractor has controls in place to ensure that the same services and costs of the contractor are not paid by multiple funding sources, including state agencies.
- C. Contractor shall also assess the areas of greatest strengths/weaknesses with existing agency contracting systems in relation to systems described in the guidelines.

Approach and Methodology

Our approach to this project includes the accomplishment of the following main objectives:

- Follow up on accomplishments that address 2001 audit report issues.
- Assess management and fiscal control for personal and client service contracts in four state agencies. This review utilized the previously developed audit program and included the Department of Social and Health Services, Department of Health, the Department of Community Trade and Economic Development and the Department of Corrections.
- Assess compliance with duplicate payment provisions in state contracts by reviewing two client service contractors with multiple state contracts. The review of contractors also assessed the contractors' contract

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management and billing control structure and assessed contract risk. A deliverable for this objective was an audit program that can be used in subsequent contractor audits.

- Assess the strengths and weakness in each agency's contracting systems in relation to the OFM guidelines.

As described in the scope of work above, this project was conducted in two phases. Phase 1 concentrated on sample selection of agency contracts and client service contractors, and a follow up of our prior audit report. Our workplan fully anticipated a high degree of agency interaction to properly administer the risk assessment tool. Risk assessments address specific risks inherent in the programs, the contractors, and the agency's ability to manage contracts. We worked with central contracting staff in each agency to perform an agency and program risk assessment for each division. We also consulted with others in the agency to fully develop the program and contractor-related risks. Working with OFM and the client service contracts database, we selected a preliminary sample of contracts and contractors to review. We then worked with each contract manager in the agencies to develop the data necessary to perform the contractor portion of the risk assessment. Once we obtained the necessary risk assessment information, we used the risk assessment tool, along with other financial information, to select the final sample of contracts and contractors. At the conclusion of the first phase we provided the final sample selections for OFM approval.

Phase 2 concentrated on auditing agency compliance with the contracting guidelines and the contractor audits. The audits were not only directed at compliance with the guidelines, but also the effectiveness of management control systems.

The following lists the number of contracts and types reviewed by agency. Client service contracts information was extracted from the OFM Client Service Contracts Database. Personal service contracts information was reported by agencies. The client service contracts reviewed represent 30% of the contract values for all contracts containing maximum considerations for all four agencies. Because a high percentage of contracts are listed as "Fee-for-Service" contracts, the total value of contracts reviewed in comparison to all client service contracts is substantially less than 30%.

Contract Type	TOTAL VALUE	TOTAL Number of Contracts	DSHS	CTED	DOH	DOC
TOTAL CLIENT SERVICE CONTRACTS/VALUES	\$ 125,876,253	58	18	15	12	13
TOTAL PERSONAL SERVICE CONTRACTS	6,900,298	6	1	2	1	2
TOTAL ALL CONTRACTS	\$ 132,776,551	64	19	17	13	15

Two state contractors were selected by OFM for a review of their management of multiple state contracts. The focus of these reviews was on the systems used by each contractor to separately account for contracts. Specifically, the systems used to segregate billings and costs between

various state and Federal contracts were tested. We selected sample months to determine whether any duplicate billings existed. In addition, we reviewed the cost distribution and cost allocation systems used to charge costs under cost reimbursement contracts. We also met with the auditors for each contractor to determine the audit coverage afforded state contracts.

Individual Agency Results-DSHS

Summary

For DSHS, 19 contracts were reviewed. Of those contracts, 18 were client service contracts and one was a personal service contract.

There was a high degree of compliance with the contract provisions section of the guidelines. One minor exception was the lack of inclusion of insurance requirements. Other sections of the guidelines that were followed to some degree were the contract monitoring provisions and the responsibilities of contract managers. Pre-contract planning, contractor screening and risk assessments were rarely documented.

The size and decentralized nature of DSHS is an impediment to assuring that sound business practices are followed consistently across divisions. Each division establishes its own rules for contracting. The contract process is divided into various segments and distributed to different functions with different reporting hierarchies. This puts an extreme burden on information and communication mechanisms to overcome the disjointed nature of contract management activities. DSHS has several mechanisms in place to address these issues, including a contracting database, the key contract coordinator positions and monthly meetings.

Results

Pre-Contract Planning

Unless the contracts related to a large and highly visible program, pre-contract planning was sparsely documented. Most contract files (70%) contained evidence of funding availability and the type of appropriation but rarely (6%) documented the cost versus benefit of contracting. The degree of compliance with documenting available public resources, legal constraints to contracting, and contracting with current or former state employees depended upon whether a contract processing action form or contractor intake form contained answers to these questions and was included in the contract files. DSHS did not document conclusions regarding available public resources and legal constraints to contracting, but did document whether they complied with the restrictions for contracting with current or former state employees in most applicable cases. The independent contractor relationship deserves the most attention in pre-contract planning documentation. While a clause in the contract clearly specifying the contractor relationship was contained in most, if not all contracts, this may not be sufficient to minimize the risk from IRS scrutiny. However, since our sample was designed to capture large contracts, we considered this attribute not applicable for the files reviewed.

Pre-Contract Considerations

The three main areas of guidance related to pre-contract considerations were typically documented in the contract. These three areas were method of compensation and billing matters; federal requirements including subrecipient or vendor determination; and audit requirements. While we only found a few cases where documentation of fiscal considerations was made prior to contract execution, we found no instance where the compensation method appeared inappropriate in relation to the nature of the service provided. We considered this acceptable evidence that some degree of appropriate fiscal considerations were made prior to executing the contract. While it was difficult for us to challenge whether the appropriate determination was made between a subrecipient and a vendor with federal funds, the decision was documented in the contract files in 92% of the applicable client service contracts reviewed. Coverage of existing audits was considered in 50% of the files. This consideration was almost always covered in client service contracts by a clause requiring audits if the contractor meets the single audit requirements.

Contractor Screening and Selection

Many contracts selected were composed of renewed client service contracts from previous procurements. As such, there was not an abundance of evidence of competitive procurements. There were no instances (0%) of competitive selection processes documented in the files. There were 7 files (39%) that documented sole source, or used an application process to award the contract. The remaining 11 files (61%) were not competitively procured and contained no documentation as to judgments made regarding the appropriateness of the selection method.

Contract Provisions

The contract provision section of the guidelines was the most consistently applied. While each division, administration, and other subgroup had its own standard contract language; the contracts complied with most of the recommended language included in the guidelines. The areas with the most consistent compliance were the remedies, sanctions, and contract termination provisions. While there were many different versions of "hold harmless and indemnification" provisions, this clause was typical. We noted no issues with the scope of work or payment methods selected. Most contracts were executed after the contract term began, but with very minor exceptions, amendments were executed prior to the termination date of the original contract. In some cases, the difference was only a few days, in other cases, a few months.

Performance measures were delineated in 39% of the files. The performance measures varied widely, from a simple status report to complex measurement systems.

Regarding insurance requirements, DSHS had a much higher percentage of compliance (83%) than the combined agencies' results, as the appropriate insurance clauses were included in 15 out of 18 contracts reviewed.

Only 11% of the contracts did not include a clear statement that payment will not be made for the same or similar services paid under another contract. A similar result (22%) was noted where contracts did not identify the source and amounts of funds.

Risk Assessment, Contract Monitoring and Audit

Several divisions of DSHS had well-developed monitoring plans. Some of the monitoring plans were developed with risk concepts in mind because they were linked to a documented risk assessment. Others had no formal monitoring plan or the plan was not developed with a formal risk assessment. We found that contract monitoring, while generally understood as important, was not typically linked to a formal risk assessment. Documentation of risk assessment was not included 66% of the time. However, the 33% of contract files that did contain risk assessments was an improvement from last year.

DSHS did not generally document that an audit review occurred. Audits obtained and reviewed were documented in 13% of the files.

Overall, DSHS staffs were well versed in their monitoring responsibilities. They compared payments to services provided, required progress reports, and generally ensured that services were provided as required under the contract. The lack of linkage to risk assessments, however, leaves this agency open to deficiencies in the completeness of the monitoring program. One area needing special attention was identifying all federal and state funds received by the contractor. We noted that this was accomplished in only 13% of the files reviewed.

Personal Services Contracts

We selected one large personal services contract for DSHS. Overall, this contract file was well documented, and in compliance with the guidelines. However, this contract was federally funded but did not state whether the contractor was a vendor or a subrecipient. Also, this contract did not contain insurance provisions. While a risk assessment was formally documented for this contract and included discussion of other funding sources as a risk, there was no evidence that all federal and state funds were identified and provided to the state. Audit requirements were not included in this personal service contract.

Individual Agency Results-DOH

Summary

For DOH, 13 contracts were reviewed. Of those contracts, 12 were client service contracts and one was a personal service contract.

There was a high degree of compliance with the contract provisions section of the guidelines. One exception was the lack of inclusion of insurance requirements. Other sections of the guidelines that were followed to some degree were the contract monitoring provisions and the responsibilities of contract managers. Pre-contract planning, contractor screening and risk assessments were rarely documented.

The centralized Contracts Office in DOH addresses staffing and communication issues. Mechanisms to facilitate cross agency communication on specific contractor issues are not available to staff. This creates risk that blended funding issues may not be known or understood by contract managers.

Results

Pre-Contract Planning

Unless the contracts related to a large and highly visible program, pre-contract planning was sparsely documented. DOH used a Contract Processing Action Request (CPAR) form that is a very good tool to document many of these considerations. All contract files (100%) contained evidence of funding availability and the type of appropriation, but rarely documented the cost versus benefit of contracting (17%). The degree of compliance with documenting available public resources, legal constraints to contracting, and contracting with current or former state employees depended upon whether the CPAR was completely administered and included in the contract files. DOH did document conclusions regarding available public resources, legal constraints to contracting, and whether they complied with the restrictions for contracting with current or former state employees in 62% of applicable cases. The independent contractor relationship deserves the most attention in pre-contract planning documentation. While a clause in the contract clearly specifying the contractor relationship was contained in most, if not all contracts, this may not be sufficient to minimize the risk from IRS scrutiny. However, since our sample was designed to capture large contracts, we considered this attribute not applicable for the files reviewed.

Pre-Contract Considerations

The three main areas of guidance related to pre-contract considerations were typically documented in the contract. These three areas were method of compensation and billing matters; federal requirements including

subrecipient or vendor determination; and audit requirements. While we only found a few cases where documentation of fiscal considerations was made prior to contract execution, we found no instance where the compensation method appeared inappropriate in relation to the nature of the service provided. We considered this acceptable evidence that some degree of appropriate fiscal considerations were made prior to executing the contract. While it was difficult for us to challenge whether the appropriate determination was made between a subrecipient and a vendor with federal funds, the decision was documented in the contract files in 100% of the applicable client service contracts reviewed. Coverage of existing audits was considered in 50% of the files. This consideration was almost always covered in client service contracts by a clause requiring audits if the contractor meets the single audit requirements.

Contractor Screening and Selection

Many contracts selected were composed of renewed client service contracts from previous procurements. As such, there was not an abundance of evidence of competitive procurements. There were three instances (25%) of competitive selection processes documented in the files. There was one file (8%) that documented sole source. The remaining 8 files (67%) were not competitively procured and contained no documentation as to judgments made regarding the appropriateness of the selection method.

Contract Provisions

The contract provision section of the guidelines was the most consistently applied. While each division, administration, and other subgroup had its own standard contract language; the contracts complied with most of the recommended language included in the guidelines. The areas with the most consistent compliance were the remedies, sanctions, and contract termination provisions. While there were many different versions of "hold harmless and indemnification" provisions, this clause was typical. We noted no issues with the scope of work or payment methods selected. 33% of the contracts were executed after the contract term began, but with very minor exceptions, amendments were executed prior to the termination date of the original contract.

Performance measures were delineated in 75% of the files. The performance measures varied widely, from a simple status report to complex measurement systems.

The one area of significant exception to the guidelines noted in the overall results was the insurance requirement. DOH had a much lower percentage of compliance than the combined agencies' results. Insurance requirements were either nonexistent or only addressed either industrial insurance or general liability or professional liability provisions in 83% of the files reviewed.

75% of the contracts did not include a clear statement that payment will not be made for the same or similar services paid under another contract.

However, we noted no instances where contracts did not identify the source and amounts of funds (100% compliance rate).

Risk Assessment, Contract Monitoring and Audit

Several divisions of DOH had well-developed monitoring plans derived directly from federal monitoring requirements. Others had no formal monitoring plan or the plan was not developed with a formal risk assessment. We found that contract monitoring, while generally understood as important, was not directly linked to a formal risk assessment. Documentation of risk assessment was not found in any of the contract files reviewed.

DOH generally documented that an audit review occurred. Audits obtained and reviewed were documented in 88% of the applicable files or in a central location.

Overall, DOH staff were well versed in their monitoring responsibilities. They compared payments to services provided, required progress reports, and generally ensured that services were provided as required under the contract. The lack of linkage to risk assessments, however, leaves this agency open to deficiencies in the completeness of the monitoring program. One area needing special attention was identifying all federal and state funds received by the contractor. We noted that this was accomplished in only 18% of the files reviewed.

Personal Services Contracts

We selected one small personal services contract for DOH. This contract was selected because it was amended to a \$19,999 maximum contract amount. This contract contained the sole source justification, even though an effort had been made to competitively procure this contract.

The contract was federally funded and did state that the contractor was a subrecipient. Given the nature of services (facilitation services), it may be more appropriately characterized as a vendor. The contract did not contain insurance provisions. A risk assessment was not formally documented for this contract. There was no evidence that all federal and state funds were identified and provided to the state, but since it was likely a vendor relationship, this was not considered significant. Audit requirements were not included in this personal service contract.

Individual Agency Results-DOC

Summary

For DOC, 15 contracts were reviewed. Of those contracts, 13 were client service contracts, and 2 were personal service contracts.

There was a high degree of compliance with the contract provisions section of the guidelines. One exception was the lack of inclusion of insurance requirements. Other sections of the guidelines that were followed to some degree were the contract monitoring provisions and the responsibilities of contract managers. Pre-contract planning, contractor screening and risk assessments were rarely documented.

The centralized Contracts Office in DOC develops contracting policy and communicates that policy to appropriate staff. This office is involved in the procurement process for contracts with high dollar values. In most cases, this office is involved in developing contract language. However, most of the responsibility for contracting is decentralized among its various operating divisions and among each institution. This decentralization may cause a lack of focus on the necessary skill mix needed to effectively manage contract risks to the agency. Training regarding contracting is still in the design stage so many staff had not been trained.

Results

Pre-Contract Planning

Unless the contracts related to a large and highly visible program, pre-contract planning was sparsely documented. Most contract files (84%) contained evidence of funding availability and the type of appropriation but did not document the cost versus benefit of contracting. Of the 84% of files that documented funding availability, 64% of the files indicated that the contract exceeded funds available. However, the amounts were minor and the presumption was made that the funding shortfall would be made up in other areas. Of the files reviewed, DOC documented the degree of compliance with available public resources (55%), legal constraints to contracting (55%), and contracting with current or former state employees (23%). The independent contractor relationship deserves the most attention in pre-contract planning documentation. While a clause in the contract clearly specifying the contractor relationship was contained in most, if not all contracts, this may not be sufficient to minimize the risk from IRS scrutiny. However, since our sample was designed to capture large contracts, we considered this attribute not applicable for the files we reviewed.

Pre-Contract Considerations

The three main areas of guidance related to pre-contract considerations were typically documented in the contract. These three areas were method of compensation and billing matters; federal requirements including subrecipient or vendor determination; and audit requirements. While we only found a few cases where documentation of fiscal considerations was made prior to contract execution, we found no instance where the compensation method appeared inappropriate in relation to the nature of the service provided. We considered this acceptable evidence that some degree of appropriate fiscal considerations were made prior to executing the contract. DOC was unusual in that most of the contracts involved state funds only. Of the three federally funded client service contracts reviewed, the decision between subrecipient and vendor was not documented in the contract files. Coverage of existing audits was also not considered in any of the files. This consideration was almost always covered in client service contracts by a clause requiring audits if the contractor meets the single audit requirements.

Contractor Screening and Selection

Many contracts selected were composed of renewed client service contracts from previous procurements. As such, there was not an abundance of evidence of competitive procurements. There were four instances (31%) of competitive selection processes documented in the files. The remaining 9 files (69%) were not competitively procured, and contained no documentation as to judgments made regarding the appropriateness of the selection method. However, 8 of the 9 files involved renewals that had a significant amount of pre-contract planning documented for the program as a whole. While pre-contract planning did not specifically address contract screening processes, it was evidence of how the program should be managed with the existing contractors. Aspects of program management included in the pre-contract planning were utilization of industry standards in establishing performance measures, compensation structure, and monitoring.

Contract Provisions

The contract provision section of the guidelines was the most consistently applied. The contracts complied with most of the recommended language included in the guidelines. The areas with the most consistent compliance were the remedies, sanctions, and contract termination provisions. While there were many different versions of "hold harmless and indemnification" provisions, this clause was typical. We noted no issues with the scope of work or payment methods selected. Most contracts were executed after the contract term began, but with very minor exceptions, amendments were executed prior to the termination date of the original contract.

Performance measures were delineated in 69% of the files. The performance measures varied widely, from a simple status report to complex measurement systems.

The one area of significant exception to the guidelines noted in the overall results was the insurance requirement. DOC had a much lower percentage of compliance than the combined agencies' results. Insurance requirements

were either nonexistent or only addressed either industrial insurance or general liability or professional liability provisions in 77% of the files reviewed.

A similar result (77%) was noted where contracts did not identify the source and amounts of funds. 38% of the contracts did not include a clear statement that payment will not be made for the same or similar services paid under another contract.

Risk Assessment, Contract Monitoring and Audit

Several divisions of DOC had well-developed monitoring plans derived directly from industry standards or other external requirements. Others had no formal monitoring plan or the plan was not developed with a formal risk assessment. We found that contract monitoring, while generally understood as important, was not directly linked to a formal risk assessment. Documentation of risk assessment was not included in the contract files.

DOC does not document that an audit review occurred.

Overall, DOC staffs were well versed in their monitoring responsibilities. They compared payments to services provided, required progress reports, and generally ensured that services were provided as required under the contract. The lack of linkage to risk assessments, however, leaves this agency open to deficiencies in the completeness of the monitoring program. One area needing special attention was identifying all federal and state funds received by the contractor. We noted that this was not documented in any of the files reviewed.

Personal Services Contracts

We selected two personal services contracts issued to one contractor for DOC. Both contracts were executed after the term began. In addition, the contractor continued to provide services between the expiration of the first contract and the start of the new contract. However, during this time the contractor was notified to stop work until the new contract was executed. These contracts did not contain liability insurance provisions. No risk assessment was formally documented for these contracts. The sources of funds were not identified in the contracts. Also, there was no evidence that all federal and state funds were identified and provided to the state. Audit requirements were not included in these personal service contracts.

Individual Agency Results –CTED

Summary

For CTED, 17 contracts were reviewed. Of those contracts, 15 were client service contracts and 2 were personal service contracts.

There was a high degree of compliance with the contract provisions section of the guidelines. One exception was the lack of inclusion of insurance requirements. Other sections of the guidelines that were followed to some degree were the contract monitoring provisions and the responsibilities of contract managers. Pre-contract planning, contractor screening and risk assessments were rarely documented.

CTED addresses the decentralized organizational structure via communication methods and assignment of authority to execute contracts with only a few individuals. However, the agency is not expected to have consistent contracting procedures across its operating divisions. CTED does not employ a central contract office as is evident in other agencies. As such, the “central contracts” function is not aware of the various risk management processes employed and therefore is not in a position to monitor the effectiveness of these various processes. Many staff in CTED have been trained in the use of OFM’s client service contracting database, which provides a control element not found in the other agencies.

Results

Pre-Contract Planning

Unless the contracts related to a large and highly visible program, pre-contract planning was sparsely documented. Most contract files (93%) contained evidence of funding availability and the type of appropriation but did not document the cost versus benefit of contracting. Because CTED does not utilize a centralized contract review and approval structure, there were no agency-wide contract processing forms to document the degree of compliance with available public resources, legal constraints to contracting, and contracting with current or former state employees. As such, CTED did not document conclusions regarding available public resources, legal constraints to contracting, and whether they complied with the restrictions for contracting with current or former state employees. The independent contractor relationship deserves the most attention in pre-contract planning documentation. While a clause in the contract clearly specifying the contractor relationship was contained in most, if not all contracts, this may not be sufficient to minimize the risk from IRS scrutiny. However, since our sample was designed to capture large contracts, we considered this attribute not applicable for the files we reviewed.

Pre-Contract Considerations

The three main areas of guidance related to pre-contract considerations were typically documented in the contract. These three areas were method of compensation and billing matters; federal requirements including subrecipient or vendor determination; and audit requirements. While we only found a few cases where documentation of fiscal considerations was made prior to contract execution, we found no instance where the compensation method appeared inappropriate in relation to the nature of the service provided. We considered this acceptable evidence that some degree of appropriate fiscal considerations were made prior to executing the contract. While it was difficult for us to challenge whether the appropriate determination was made between a subrecipient and a vendor with federal funds, the decision was documented in the contract files in 43% of the applicable client service contracts reviewed. Coverage of existing audits was considered in 80% of the files. This consideration was almost always covered in client service contracts by a clause requiring audits if the contractor meets the single audit requirements.

Contractor Screening and Selection

Many contracts selected were composed of renewed client service contracts from previous procurements. As such, there was not an abundance of evidence of competitive procurements. There were seven instances (47%) of competitive selection processes documented in the files. There were six files (40%) that used an application process. The remaining 2 files (13%) were not competitively procured, and contained no documentation as to judgments made regarding the appropriateness of the selection method.

Contract Provisions

The contract provision section of the guidelines was the most consistently applied. While each division, administration and other subgroup had its own standard contract language; the contracts complied with most of the recommended language included in the guidelines. The areas with the most consistent compliance were the remedies, sanctions, and contract termination provisions. While there were many different versions of "hold harmless and indemnification" provisions, this clause was typical. We noted no issues with the scope of work or payment methods selected. 71% of the contracts were executed after the contract term began but with very minor exceptions, amendments were executed prior to the termination date of the original contract.

Performance measures were delineated in 64% of the files. The performance measures varied widely, from a simple status report to complex measurement systems.

The one area of significant exception to the guidelines noted in the overall results was the insurance requirement. Insurance requirements were either nonexistent or only addressed either industrial insurance or general liability or professional liability provisions in 57% of the files reviewed.

Only 14% of the contracts did not include a clear statement that payment will not be made for the same or similar services paid under another contract. Similarly, we noted only three instances where contracts did not identify the source and amounts of funds (83% compliance rate).

Risk Assessment, Contract Monitoring and Audit

Several divisions of CTED had well-developed monitoring plans derived directly from federal monitoring requirements. Some of the monitoring plans were developed with risk concepts in mind because they were linked to a documented risk assessment. Others had no formal monitoring plan or the plan was not developed with a formal risk assessment. We found that contract monitoring, while generally understood as important, was not directly linked to a formal risk assessment. Documentation of risk assessment is not developed 93% of the time.

CTED generally documented that an audit review occurred. Audits obtained and reviewed were documented in 93% of the applicable files or in a central location.

Overall, CTED staffs were well versed in their monitoring responsibilities. They compared payments to services provided, required progress reports, and generally ensured that services were provided as required under the contract. The lack of linkage to risk assessments, however, leaves this agency open to deficiencies in the completeness of the monitoring program. One area needing special attention was identifying all federal and state funds received by the contractor. We noted that this was accomplished in only 27% of the files reviewed.

Personal Services Contracts

We selected two personal services contracts for CTED. In one case, there was no OFM filing. When questioned, CTED staff stated they were not required to file with OFM because the contract was specifically listed in their budget. Upon inquiry with OFM, there was no such exclusion from the filing requirement. CTED later indicated the contract was improperly classified as a personal service contract when it should have been recorded as a grant to the contractor. Neither contract contained a risk assessment. Audit requirements were not included in these personal service contracts.

Exhibit A Combined and Individual Agency Results

Most information was obtained in the contract review portion of this project. Many of the agencies' responses to the guidelines could only be evaluated on a subjective basis. There are "gray" areas in the guidelines, which do not apply to every situation. We provided contracting staff with an indication of our expectations for contract file documentation prior to the file review so necessary information could be assembled prior to review. Some of the contract files contained more information than others, and certain types of information were generally not provided. For example, since contracts are paid through a central finance function, payment information was generally not provided. We were limited to making judgments based on the information provided in the files or in some cases, from discussions with contract managers.

In order to accumulate the wide variety of documentation in a simple, yet meaningful statistical format, we collated the results into the following four categories. We also provided explanatory notes when necessary.

C- The file documentation contained evidence of compliance with the guideline.

NA- The specific guideline did not appear to apply in this circumstance.

ND- The file documentation did not contain evidence of compliance with the guideline.

X- Exception, the contract did not comply with the guideline.

Compliance or exceptions to the guidelines were relatively easy to categorize. Whether a guideline attribute was not applicable or not documented was more difficult. This decision was made based upon overall condition of the files and whether other information in the files assisted in making this determination. Since these categorization decisions required a significant amount of judgment, others could view the same documentation and make this determination differently.

The statistical accumulation of the results is provided on a combined basis and for each of the four agencies in the following charts.

INDIVIDUAL CONTRACT REVIEW RESULTS- ALL AGENCIES COMBINED

RESULTS- COMBINED		NOTES	C	NA	ND	X
Pre-Contract Planning						
Determine the types of client services that are contracted and those that are performed by state agency personnel.						
For contracted client services, obtain documentation that supports the decision to contract. Determine whether the following were considered and decisions documented:						
<ul style="list-style-type: none"> Funding Availability: Adequate funding based on in-house budget projections must be verified by the contract manager. If funding is inadequate or non-existent, a contract cannot be awarded. 		(A)	42	1	7	8
<ul style="list-style-type: none"> When funding is available, the type of appropriation should be considered. For state agencies whose funds are appropriated for a fiscal year or biennial period, those funds cannot be disbursed for work performed in a subsequent period. Contract managers should also consider overhead expenses, such as costs for staff involvement with contract development, contract management, monitoring and internal fiscal processes, training, legal review of the contract, and dispute resolution. 			52		6	
<ul style="list-style-type: none"> Cost/Benefit Analysis: Before awarding a client service contract, contract managers should assess the need for contracting versus the cost of obtaining the desired results. In order to complete a cost/benefit analysis, contract managers should define what is expected from a contract to achieve the identified benefits 		(B)	3	3	52	
<ul style="list-style-type: none"> Available Public Resources: After the client service is defined, contract managers should determine the availability of qualified public resources before considering the use of contracted resources. 			10	28	20	
<ul style="list-style-type: none"> Legal Constraints to Contracting: Certain legal requirements should be carefully considered before contracting for client services, including whether state employees have traditionally performed the client service work, whether a contract would replace current classified employees (RCW 41.06.380), or whether there are any applicable collective bargaining agreements. 			9	14	35	
<ul style="list-style-type: none"> Contracting with Current or Former State Employees: Specific restrictions apply to contracting with current or former state employees. Contract managers should familiarize themselves with the requirements of Chapter 42.52 RCW prior to entering into any type of contracts. 			15	40	3	

RESULTS- COMBINED		NOTES	C	NA	ND	X
<ul style="list-style-type: none">Independent Contractor Relationship: An essential criterion in the use of client services is the independent entrepreneurial relationship between the contractor and the agency. Agencies could potentially be subject to payment of fines by the Internal Revenue Service (IRS) and the Social Security Administration (SSA), if a determination of "employee" status is made regarding the agency's contracts.	(C)		3	55		
Pre-Contract Considerations						
Determine whether the contract files contain documentation that the following contracting aspects were considered prior to entering into contracts.						
<ul style="list-style-type: none">Fiscal Considerations: Contract managers should determine the appropriate method of compensation and billing prior to entering into a contract. Prior to the contract award, the services should be analyzed to determine the most effective compensation method (i.e., cost reimbursement, fee for service, fixed price, or performance based). Ideally, the method selected will be one which best ensures delivery of services, encourages efficiencies and effectiveness of service, and provides the best value to state agencies and clients. Client service contracts should identify and document the method of compensation that will be used to pay the contractor for delivery of services.		58				
<ul style="list-style-type: none">Federally Funded Contracts: Contracts supported with federal funds, whether in whole or in part, are subject to federal requirements. Such requirements may be the result of federal statutory provisions, administrative regulations adopted by federal agencies, administrative guidelines distributed by federal agencies or contract award provisions. <u>When federal funds are involved, a determination should be made before a client service contract is written as to whether the contractor is a subrecipient or vendor. The administrative and management requirements for each differ significantly. The correct designation ensures compliance with applicable federal regulations and determines whether an audit is required of the contractor.</u>	(D)		28	18	3	9

RESULTS- COMBINED		NOTES	C	NA	ND	X
<ul style="list-style-type: none"> Audits: Contract managers should evaluate the coverage provided by existing and anticipated audits prior to entering into a contract. Additional audit requirements may be identified and written into the contract. When this is not practical, generic language should be included in the contract indicating an audit may be required. 			27		31	
Contractor Selection and Screening						
Determine whether the contract files contain documentation regarding the decision to use a competitive procurement process or whether a non-competitive, sole source selection method was used. Conclude as to the propriety of the selection method in light of the OFM guidelines.		(E)				
Determine whether the contract files contain documentation regarding how broadly the solicitation for proposals were advertised and whether procedures were sufficient to obtain an adequate number of responses.						
Determine whether the contract files contain documentation regarding whether OMWBE firms were afforded the maximum practical opportunity in the specific procurement.						
Determine whether the contract files contain evidence that appropriate contractor screening criteria and methods were used. Consider whether contractor is able to satisfy the following standards:						
<ul style="list-style-type: none"> The contractor has the appropriate experience, staffing, technical qualifications, and facilities (including any subcontractor arrangements). The contractor is able to comply with the proposed or required time of delivery or performance schedule. The contractor has adequate administrative and financial capability for performance. The contractor has a satisfactory record of integrity, judgment, and performance. The contractor is otherwise qualified and eligible to receive a contract under applicable laws and regulations. If the contract will be funded with federal money, the contractor cannot be on the federal suspended/debarred list, which identifies contractors who cannot be given federally funded contracts. 						
Determine whether the contractor provided evidence of the appropriate licenses,						

RESULTS- COMBINED		NOTES	C	NA	ND	X
registrations and certifications that would apply to the specific contracted services						
Contract Provisions						
Determine whether a model contract was used for the specific contract that substantially conforms to Appendix D of OFM's <i>Guide to Client Service Contracting</i> . Specifically review the contract for the following items:		NOTE: One contract was not provided.				
<ul style="list-style-type: none"> Is the scope of work clearly written and defined? 			57			
<ul style="list-style-type: none"> Are amendments made in writing and executed prior to the expiration of the original contract? 		(F)	15	4		38
<ul style="list-style-type: none"> Whether performance measures are required and do they satisfy statutorily mandated outcomes? 			34	23		
<ul style="list-style-type: none"> Whether hold harmless and indemnification provisions are included? 			57			
<ul style="list-style-type: none"> Whether liability and industrial insurance provisions are adequate? 			26			31
<ul style="list-style-type: none"> Whether remedies and sanctions provisions are appropriate to safeguard the state's interests? 			57			
<ul style="list-style-type: none"> Whether contract termination provisions protect the state's rights? 			57			
Determine whether the appropriate compensation method was selected and identified in the contract. The compensation should follow these general principles:						
<ul style="list-style-type: none"> State agencies should pay no more than a reasonable and fair price for client services. 			57			
<ul style="list-style-type: none"> Payment to the contractor should be made according to the terms of the contract. A clear statement of work should be developed and should directly relate to the method of compensation in the contract. 			57			
<ul style="list-style-type: none"> The contract should identify the source and amount of funds. If the source of funds is federal, federal rules and regulations must be followed and may supersede state rules and regulations. Consult applicable federal regulations as necessary. 			39	1		17
<ul style="list-style-type: none"> Contracts should specify that payment will not be made for the same or similar services for the same client more than once (no duplicate payments). The costs of delivering a service or set of services may be distributed by the contractor to more than one contract or funding source. As a result, state agencies should consider 			38	1		18

RESULTS- COMBINED		NOTES	C	NA	ND	X
including provisions in the contract that hold the contractor liable for requesting double payment for the same unit of work.						
<ul style="list-style-type: none"> Contractors should have accounting methods and systems that are describable and auditable, as applicable to the circumstances. Contractors should comply with accounting measures and principles appropriate to the contractor's type of entity and as identified in the contract. 		54				3
<ul style="list-style-type: none"> Payments made under client service contracts should be necessary and reasonable for the proper and efficient management of the client service program. The costs should be directly attributable to the specific work or the normal administration of the contract. 		53	2	1		1
<ul style="list-style-type: none"> Payments made under client service contracts should be adequately documented and supported by appropriate accounting records maintained by both the state agency and the contractor. 		42	3	1		
<ul style="list-style-type: none"> Financial reporting procedures and requirements should be clearly identified in the contract to ensure that contractors are able to record expenses by funding source. 		50	4			3
<ul style="list-style-type: none"> State agencies should pay contractors for services in a timely manner (RCW 39.76.010). 		(G) 17		29		
Risk Assessment, Contract Monitoring and Audit						
Obtain the selected contract files and determine whether a risk assessment specific to the individual contract was completed. Compare to the contracting risk assessment matrix (appendix to this contracting review program). Conclude as to the sufficiency of the risk assessment.		7				51
Determine the extent of technical assistance provided for the contract. Determine whether the need for technical assistance has been fully assessed by the contracting manager. Indicators of need could arise for the risk assessment process, recurring questions or issues on the same subject matter, personnel turnover or new requirements tied to specific funds.		20	1	37		
Determine whether the contract files contain evidence that an individual or team member that has the necessary program expertise, fiscal expertise, authority to assess service,						

RESULTS- COMBINED		NOTES	C	NA	ND	X
quality and authority to assess compliance with contract provisions has carried out the contract monitoring responsibilities. Typical responsibilities of contract monitoring include:						
<ul style="list-style-type: none"> Comparing the actual performance of the contractor to the contract terms and agreed upon performance indicators. 			48		10	
<ul style="list-style-type: none"> Identifying all federal and state funds received by the contractor and coordinating with other funding sources, as necessary. 			8	1	49	
<ul style="list-style-type: none"> Verifying the contractor has fulfilled requirements of the contract before approving invoices for payment. 			35	5	16	
<ul style="list-style-type: none"> Comparing and tracking payments to the contractor against contract terms 			35	5	16	
<ul style="list-style-type: none"> Ensuring timely payment of invoices in accordance with state laws, the contract terms, and agency policies. 			40	5	13	
<ul style="list-style-type: none"> Ensuring that the contractor is not reimbursed more than once for client service delivery. 			24	18	14	2
<ul style="list-style-type: none"> Ensuring that any required audits are performed and received when due. 			23	4	31	
<ul style="list-style-type: none"> Evaluating audit findings and the status of corrective action. 			21	7	30	
<ul style="list-style-type: none"> Identifying and following any federal or state monitoring requirements. 			8	45	5	
Review the contract files for documentation that the following monitoring procedures were followed, if applicable.						
<ul style="list-style-type: none"> Periodic contractor reporting: Require the contractor to submit progress reports or other appropriate data or reports, based on pre-defined criteria, and review the contractor's reports for verification of services provided and adherence to the contract. Substandard performance should be identified and addressed timely and appropriately. 			41	8	9	
<ul style="list-style-type: none"> Agency review of audit reports: Review any required audit reports and audit work papers and ensure the contractor takes appropriate and timely corrective action. 			25	4	29	
<ul style="list-style-type: none"> Invoice reviews: Compare billings with the terms agreed upon in the contract. Ensure the costs being charged are within the contract parameters. 			38	1	19	
<ul style="list-style-type: none"> Onsite reviews and observations: Conduct onsite reviews, interview contractor staff to ascertain their understanding of program goals, interview clients about services received, review key systems and service documentation, review client case records, 			31	4	21	1

RESULTS- COMBINED	NOTES	C	NA	ND	X
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review personnel records to ensure staff have appropriate credentials, review fiscal records, and observe operations whenever possible. The results of these visits should be documented in writing and compared with contract requirements.					
<ul style="list-style-type: none"> Other periodic contact with contractor: Maintain contact with the contractor to review progress on a regular basis. Good contract monitoring includes a continuous dialogue with the contractor. 	27	1	30		
<ul style="list-style-type: none"> Client surveys: Survey clients concerning contract service delivery and quality. Require the contractor to resolve complaints. Keep records of both the complaint and method of resolution. 	9	8	33		1
Specifically review the documentation regarding corrective actions taken by the agency in response to serious deficiencies identified during the contract monitoring process. Refer to the <i>Guide</i> for specific actions.	18	20	20		
Determine whether contract was audited. If no audit report is contained in the file, determine whether the decision to obtain or not obtain audit coverage is documented in the contract files.	19		32		7
Review the audit report for the type of opinions and findings.	22	6	30		
Determine whether decisions regarding audit findings are documented in the contract file. Conclude as to the appropriateness of the decisions regarding resolutions, corrective action plans and how questioned costs were handled.	12	16	30		

- (A)- Seven of the eight exceptions noted actually comply with regards to documenting funding availability, but the documentation reflects that the contract amount is slightly in excess of funding availability. The presumption is that the funding shortfall would be made up in other areas.
- (B)- Cost benefit of contracting was not specifically documented but the other planning documentation of several other contracts was very well documented.
- (C)- There is usually a clause in the contract but otherwise not documented but also likely not applicable.
- (D)- Seven of the nine exceptions noted relate only to documenting the subrecipient relationship in the contract.
- (E)- 29 cases not competitively bid and no other documentation, 15 cases documented as sole source or used an application process, 14 were competitively bid and documented.
- (F)- 38 contracts were executed after term of contract began.
- (G)- Payment information was not typically provided for our review.

INDIVIDUAL CONTRACT REVIEW RESULTS- DEPARTMENT OF SOCIAL AND HEALTH SERVICES

RESULTS- DEPARTMENT OF SOCIAL AND HEALTH SERVICES		NOTES	C	NA	ND	X
Pre-Contract Planning						
Determine the types of client services that are contracted and those that are performed by state agency personnel.						
For contracted client services, obtain documentation that supports the decision to contract. Determine whether the following were considered and decisions documented:						
<ul style="list-style-type: none"> Funding Availability: Adequate funding based on in-house budget projections must be verified by the contract manager. If funding is inadequate or non-existent, a contract cannot be awarded. 			12	1	4	1
<ul style="list-style-type: none"> When funding is available, the type of appropriation should be considered. For state agencies whose funds are appropriated for a fiscal year or biennial period, those funds cannot be disbursed for work performed in a subsequent period. Contract managers should also consider overhead expenses, such as costs for staff involvement with contract development, contract management, monitoring and internal fiscal processes, training, legal review of the contract, and dispute resolution. 			14		4	
<ul style="list-style-type: none"> Cost/Benefit Analysis: Before awarding a client service contract, contract managers should assess the need for contracting versus the cost of obtaining the desired results. In order to complete a cost/benefit analysis, contract managers should define what is expected from a contract to achieve the identified benefits 			1	1	16	
<ul style="list-style-type: none"> Available Public Resources: After the client service is defined, contract managers should determine the availability of qualified public resources before considering the use of contracted resources. 				4	14	
<ul style="list-style-type: none"> Legal Constraints to Contracting: Certain legal requirements should be carefully considered before contracting for client services, including whether state employees have traditionally performed the client service work, whether a contract would replace current classified employees (RCW 41.06.380), or whether there are any applicable collective bargaining agreements. 				3	15	
<ul style="list-style-type: none"> Contracting with Current or Former State Employees: Specific restrictions apply to contracting with current or former state employees. Contract managers should familiarize themselves with the requirements of Chapter 42.52 RCW prior to entering into any type of contracts. 			8	8	2	

RESULTS- DEPARTMENT OF SOCIAL AND HEALTH SERVICES		NOTES	C	NA	ND	X
<ul style="list-style-type: none"> Independent Contractor Relationship: An essential criterion in the use of client services is the independent entrepreneurial relationship between the contractor and the agency. Agencies could potentially be subject to payment of fines by the Internal Revenue Service (IRS) and the Social Security Administration (SSA), if a determination of "employee" status is made regarding the agency's contracts. 	(A)					
Pre-Contract Considerations						
Determine whether the contract files contain documentation that the following contracting aspects were considered prior to entering into contracts.						
<ul style="list-style-type: none"> Fiscal Considerations: Contract managers should determine the appropriate method of compensation and billing prior to entering into a contract. Prior to the contract award, the services should be analyzed to determine the most effective compensation method (i.e., cost reimbursement, fee for service, fixed price, or performance based). Ideally, the method selected will be one which best ensures delivery of services, encourages efficiencies and effectiveness of service, and provides the best value to state agencies and clients. Client service contracts should identify and document the method of compensation that will be used to pay the contractor for delivery of services. 		18				
<ul style="list-style-type: none"> Federally Funded Contracts: Contracts supported with federal funds, whether in whole or in part, are subject to federal requirements. Such requirements may be the result of federal statutory provisions, administrative regulations adopted by federal agencies, administrative guidelines distributed by federal agencies or contract award provisions. <u>When federal funds are involved, a determination should be made before a client service contract is written as to whether the contractor is a subrecipient or vendor. The administrative and management requirements for each differ significantly. The correct designation ensures compliance with applicable federal regulations and determines whether an audit is required of the contractor.</u> 		11	6	1		

RESULTS- DEPARTMENT OF SOCIAL AND HEALTH SERVICES		NOTES	C	NA	ND	X
<ul style="list-style-type: none"> Audits: Contract managers should evaluate the coverage provided by existing and anticipated audits prior to entering into a contract. Additional audit requirements may be identified and written into the contract. When this is not practical, generic language should be included in the contract indicating an audit may be required. 			9		9	
Contractor Selection and Screening						
Determine whether the contract files contain documentation regarding the decision to use a competitive procurement process or whether a non-competitive, sole source selection method was used. Conclude as to the propriety of the selection method in light of the OFM guidelines.		(B)				
Determine whether the contract files contain documentation regarding how broadly the solicitation for proposals were advertised and whether procedures were sufficient to obtain an adequate number of responses.						
Determine whether the contract files contain documentation regarding whether OMWBE firms were afforded the maximum practical opportunity in the specific procurement.						
Determine whether the contract files contain evidence that appropriate contractor screening criteria and methods were used. Consider whether contractor is able to satisfy the following standards:						
<ul style="list-style-type: none"> The contractor has the appropriate experience, staffing, technical qualifications, and facilities (including any subcontractor arrangements). The contractor is able to comply with the proposed or required time of delivery or performance schedule. The contractor has adequate administrative and financial capability for performance. The contractor has a satisfactory record of integrity, judgment, and performance. The contractor is otherwise qualified and eligible to receive a contract under applicable laws and regulations. If the contract will be funded with federal money, the contractor cannot be on the federal suspended/debarred list, which identifies contractors who cannot be given federally funded contracts. 						
Determine whether the contractor provided evidence of the appropriate licenses,						

RESULTS- DEPARTMENT OF SOCIAL AND HEALTH SERVICES		NOTES	C	NA	ND	X
registrations and certifications that would apply to the specific contracted services						
Contract Provisions						
Determine whether a model contract was used for the specific contract that substantially conforms to Appendix D of OFM's <i>Guide to Client Service Contracting</i> . Specifically review the contract for the following items:						
<ul style="list-style-type: none"> Is the scope of work clearly written and defined? 			18			
<ul style="list-style-type: none"> Are amendments made in writing and executed prior to the expiration of the original contract? 		(C)	1	4		13
<ul style="list-style-type: none"> Whether performance measures are required and do they satisfy statutorily mandated outcomes? 			7	11		
<ul style="list-style-type: none"> Whether hold harmless and indemnification provisions are included? 			18			
<ul style="list-style-type: none"> Whether liability and industrial insurance provisions are adequate? 			15			3
<ul style="list-style-type: none"> Whether remedies and sanctions provisions are appropriate to safeguard the state's interests? 			18			
<ul style="list-style-type: none"> Whether contract termination provisions protect the state's rights? 			18			
Determine whether the appropriate compensation method was selected and identified in the contract. The compensation should follow these general principles:						
<ul style="list-style-type: none"> State agencies should pay no more than a reasonable and fair price for client services. 			18			
<ul style="list-style-type: none"> Payment to the contractor should be made according to the terms of the contract. A clear statement of work should be developed and should directly relate to the method of compensation in the contract. 			18			
<ul style="list-style-type: none"> The contract should identify the source and amount of funds. If the source of funds is federal, federal rules and regulations must be followed and may supersede state rules and regulations. Consult applicable federal regulations as necessary. 			14			4
<ul style="list-style-type: none"> Contracts should specify that payment will not be made for the same or similar services for the same client more than once (no duplicate payments). The costs of delivering a service or set of services may be distributed by the contractor to more than one contract or funding source. As a result, state agencies should consider 			16			2

RESULTS- DEPARTMENT OF SOCIAL AND HEALTH SERVICES	NOTES	C	NA	ND	X
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including provisions in the contract that hold the contractor liable for requesting double payment for the same unit of work.					
<ul style="list-style-type: none"> Contractors should have accounting methods and systems that are describable and auditable, as applicable to the circumstances. Contractors should comply with accounting measures and principles appropriate to the contractor's type of entity and as identified in the contract. 		15			3
<ul style="list-style-type: none"> Payments made under client service contracts should be necessary and reasonable for the proper and efficient management of the client service program. The costs should be directly attributable to the specific work or the normal administration of the contract. 		17			1
<ul style="list-style-type: none"> Payments made under client service contracts should be adequately documented and supported by appropriate accounting records maintained by both the state agency and the contractor. 	(D)	7			
<ul style="list-style-type: none"> Financial reporting procedures and requirements should be clearly identified in the contract to ensure that contractors are able to record expenses by funding source. 		15			3
<ul style="list-style-type: none"> State agencies should pay contractors for services in a timely manner (RCW 39.76.010). 	(D)	7			
Risk Assessment, Contract Monitoring and Audit					
Obtain the selected contract files and determine whether a risk assessment specific to the individual contract was completed. Compare to the contracting risk assessment matrix (appendix to this contracting review program). Conclude as to the sufficiency of the risk assessment.		6			12
Determine the extent of technical assistance provided for the contract. Determine whether the need for technical assistance has been fully assessed by the contracting manager. Indicators of need could arise for the risk assessment process, recurring questions or issues on the same subject matter, personnel turnover or new requirements tied to specific funds.		11		7	
Determine whether the contract files contain evidence that an individual or team member that has the necessary program expertise, fiscal expertise, authority to assess service,					

RESULTS- DEPARTMENT OF SOCIAL AND HEALTH SERVICES					NOTES	C	NA	ND	X
quality and authority to assess compliance with contract provisions has carried out the contract monitoring responsibilities. Typical responsibilities of contract monitoring include:									
<ul style="list-style-type: none"> Comparing the actual performance of the contractor to the contract terms and agreed upon performance indicators. 						14		4	
<ul style="list-style-type: none"> Identifying all federal and state funds received by the contractor and coordinating with other funding sources, as necessary. 						2		16	
<ul style="list-style-type: none"> Verifying the contractor has fulfilled requirements of the contract before approving invoices for payment. 						9	4	5	
<ul style="list-style-type: none"> Comparing and tracking payments to the contractor against contract terms 						9	4	5	
<ul style="list-style-type: none"> Ensuring timely payment of invoices in accordance with state laws, the contract terms, and agency policies. 						8	4	6	
<ul style="list-style-type: none"> Ensuring that the contractor is not reimbursed more than once for client service delivery. 						9	4	5	
<ul style="list-style-type: none"> Ensuring that any required audits are performed and received when due. 						2		16	
<ul style="list-style-type: none"> Evaluating audit findings and the status of corrective action. 						2		16	
<ul style="list-style-type: none"> Identifying and following any federal or state monitoring requirements. 						1	16	1	
Review the contract files for documentation that the following monitoring procedures were followed, if applicable.									
<ul style="list-style-type: none"> Periodic contractor reporting: Require the contractor to submit progress reports or other appropriate data or reports, based on pre-defined criteria, and review the contractor's reports for verification of services provided and adherence to the contract. Substandard performance should be identified and addressed timely and appropriately. 						11	4	3	
<ul style="list-style-type: none"> Agency review of audit reports: Review any required audit reports and audit work papers and ensure the contractor takes appropriate and timely corrective action. 						3		15	
<ul style="list-style-type: none"> Invoice reviews: Compare billings with the terms agreed upon in the contract. Ensure the costs being charged are within the contract parameters. 						8		10	
<ul style="list-style-type: none"> Onsite reviews and observations: Conduct onsite reviews, interview contractor staff to ascertain their understanding of program goals, interview clients about services received, review key systems and service documentation, review client case records, 						13		4	1

RESULTS- DEPARTMENT OF SOCIAL AND HEALTH SERVICES		NOTES	C	NA	ND	X
review personnel records to ensure staff have appropriate credentials, review fiscal records, and observe operations whenever possible. The results of these visits should be documented in writing and compared with contract requirements.						
<ul style="list-style-type: none"> Other periodic contact with contractor: Maintain contact with the contractor to review progress on a regular basis. Good contract monitoring includes a continuous dialogue with the contractor. 			9		9	
<ul style="list-style-type: none"> Client surveys: Survey clients concerning contract service delivery and quality. Require the contractor to resolve complaints. Keep records of both the complaint and method of resolution. 					18	
Specifically review the documentation regarding corrective actions taken by the agency in response to serious deficiencies identified during the contract monitoring process. Refer to the <i>Guide</i> for specific actions.			4	7	7	
Determine whether contract was audited. If no audit report is contained in the file, determine whether the decision to obtain or not obtain audit coverage is documented in the contract files.			2		16	
Review the audit report for the type of opinions and findings.			2		16	
Determine whether decisions regarding audit findings are documented in the contract file. Conclude as to the appropriateness of the decisions regarding resolutions, corrective action plans and how questioned costs were handled.			2		16	
Other Matters Noted						

(A)- There is a clause in the contract but otherwise not documented but also likely not applicable.

(B)- Eleven cases not competitively bid and no other documentation, seven cases documented as sole source or used an application process.

(C)- Thirteen contracts were executed after term of contract began.

(D)- There were eleven cases where payment documentation was not provided.

INDIVIDUAL CONTRACT REVIEW RESULTS- DEPARTMENT OF HEALTH

RESULTS- DEPARTMENT OF HEALTH		NOTES	C	NA	ND	X
Pre-Contract Planning						
Determine the types of client services that are contracted and those that are performed by state agency personnel.						
For contracted client services, obtain documentation that supports the decision to contract. Determine whether the following were considered and decisions documented:						
<ul style="list-style-type: none"> Funding Availability: Adequate funding based on in-house budget projections must be verified by the contract manager. If funding is inadequate or non-existent, a contract cannot be awarded. 			12			
<ul style="list-style-type: none"> When funding is available, the type of appropriation should be considered. For state agencies whose funds are appropriated for a fiscal year or biennial period, those funds cannot be disbursed for work performed in a subsequent period. Contract managers should also consider overhead expenses, such as costs for staff involvement with contract development, contract management, monitoring and internal fiscal processes, training, legal review of the contract, and dispute resolution. 			12			
<ul style="list-style-type: none"> Cost/Benefit Analysis: Before awarding a client service contract, contract managers should assess the need for contracting versus the cost of obtaining the desired results. In order to complete a cost/benefit analysis, contract managers should define what is expected from a contract to achieve the identified benefits 			2	1	9	
<ul style="list-style-type: none"> Available Public Resources: After the client service is defined, contract managers should determine the availability of qualified public resources before considering the use of contracted resources. 			5	5	2	
<ul style="list-style-type: none"> Legal Constraints to Contracting: Certain legal requirements should be carefully considered before contracting for client services, including whether state employees have traditionally performed the client service work, whether a contract would replace current classified employees (RCW 41.06.380), or whether there are any applicable collective bargaining agreements. 			4	2	6	
<ul style="list-style-type: none"> Contracting with Current or Former State Employees: Specific restrictions apply to contracting with current or former state employees. Contract managers should familiarize themselves with the requirements of Chapter 42.52 RCW prior to entering into any type of contracts. 			4	7	1	

RESULTS- DEPARTMENT OF HEALTH		NOTES	C	NA	ND	X
<ul style="list-style-type: none"> Independent Contractor Relationship: An essential criterion in the use of client services is the independent entrepreneurial relationship between the contractor and the agency. Agencies could potentially be subject to payment of fines by the Internal Revenue Service (IRS) and the Social Security Administration (SSA), if a determination of "employee" status is made regarding the agency's contracts. 			3	9		
Pre-Contract Considerations						
Determine whether the contract files contain documentation that the following contracting aspects were considered prior to entering into contracts.						
<ul style="list-style-type: none"> Fiscal Considerations: Contract managers should determine the appropriate method of compensation and billing prior to entering into a contract. Prior to the contract award, the services should be analyzed to determine the most effective compensation method (i.e., cost reimbursement, fee for service, fixed price, or performance based). Ideally, the method selected will be one which best ensures delivery of services, encourages efficiencies and effectiveness of service, and provides the best value to state agencies and clients. Client service contracts should identify and document the method of compensation that will be used to pay the contractor for delivery of services. 		12				
<ul style="list-style-type: none"> Federally Funded Contracts: Contracts supported with federal funds, whether in whole or in part, are subject to federal requirements. Such requirements may be the result of federal statutory provisions, administrative regulations adopted by federal agencies, administrative guidelines distributed by federal agencies or contract award provisions. <u>When federal funds are involved, a determination should be made before a client service contract is written as to whether the contractor is a subrecipient or vendor. The administrative and management requirements for each differ significantly. The correct designation ensures compliance with applicable federal regulations and determines whether an audit is required of the contractor.</u> 		11	1			

RESULTS- DEPARTMENT OF HEALTH		NOTES	C	NA	ND	X
<ul style="list-style-type: none"> Audits: Contract managers should evaluate the coverage provided by existing and anticipated audits prior to entering into a contract. Additional audit requirements may be identified and written into the contract. When this is not practical, generic language should be included in the contract indicating an audit may be required. 			6		6	
Contractor Selection and Screening						
Determine whether the contract files contain documentation regarding the decision to use a competitive procurement process or whether a non-competitive, sole source selection method was used. Conclude as to the propriety of the selection method in light of the OFM guidelines.		(A)				
Determine whether the contract files contain documentation regarding how broadly the solicitation for proposals were advertised and whether procedures were sufficient to obtain an adequate number of responses.			3			
Determine whether the contract files contain documentation regarding whether OMWBE firms were afforded the maximum practical opportunity in the specific procurement.			2			1
Determine whether the contract files contain evidence that appropriate contractor screening criteria and methods were used. Consider whether contractor is able to satisfy the following standards:						
<ul style="list-style-type: none"> The contractor has the appropriate experience, staffing, technical qualifications, and facilities (including any subcontractor arrangements). The contractor is able to comply with the proposed or required time of delivery or performance schedule. The contractor has adequate administrative and financial capability for performance. The contractor has a satisfactory record of integrity, judgment, and performance. The contractor is otherwise qualified and eligible to receive a contract under applicable laws and regulations. If the contract will be funded with federal money, the contractor cannot be on the federal suspended/debarred list, which identifies contractors who cannot be given federally funded contracts. 						
Determine whether the contractor provided evidence of the appropriate licenses,						

RESULTS- DEPARTMENT OF HEALTH		NOTES	C	NA	ND	X
registrations and certifications that would apply to the specific contracted services						
Contract Provisions						
Determine whether a model contract was used for the specific contract that substantially conforms to Appendix D of OFM's <i>Guide to Client Service Contracting</i> . Specifically review the contract for the following items:						
<ul style="list-style-type: none"> Is the scope of work clearly written and defined? 			12			
<ul style="list-style-type: none"> Are amendments made in writing and executed prior to the expiration of the original contract? 		(B)	8			4
<ul style="list-style-type: none"> Whether performance measures are required and do they satisfy statutorily mandated outcomes? 			9	3		
<ul style="list-style-type: none"> Whether hold harmless and indemnification provisions are included? 			12			
<ul style="list-style-type: none"> Whether liability and industrial insurance provisions are adequate? 			2			10
<ul style="list-style-type: none"> Whether remedies and sanctions provisions are appropriate to safeguard the state's interests? 			12			
<ul style="list-style-type: none"> Whether contract termination provisions protect the state's rights? 		(C)	12			
Determine whether the appropriate compensation method was selected and identified in the contract. The compensation should follow these general principles:						
<ul style="list-style-type: none"> State agencies should pay no more than a reasonable and fair price for client services. 			12			
<ul style="list-style-type: none"> Payment to the contractor should be made according to the terms of the contract. A clear statement of work should be developed and should directly relate to the method of compensation in the contract. 			12			
<ul style="list-style-type: none"> The contract should identify the source and amount of funds. If the source of funds is federal, federal rules and regulations must be followed and may supersede state rules and regulations. Consult applicable federal regulations as necessary. 			12			
<ul style="list-style-type: none"> Contracts should specify that payment will not be made for the same or similar services for the same client more than once (no duplicate payments). The costs of delivering a service or set of services may be distributed by the contractor to more than one contract or funding source. As a result, state agencies should consider 			3			9

RESULTS- DEPARTMENT OF HEALTH		NOTES	C	NA	ND	X
including provisions in the contract that hold the contractor liable for requesting double payment for the same unit of work.						
<ul style="list-style-type: none"> Contractors should have accounting methods and systems that are describable and auditable, as applicable to the circumstances. Contractors should comply with accounting measures and principles appropriate to the contractor's type of entity and as identified in the contract. 		12				
<ul style="list-style-type: none"> Payments made under client service contracts should be necessary and reasonable for the proper and efficient management of the client service program. The costs should be directly attributable to the specific work or the normal administration of the contract. 		(D) 11	1			
<ul style="list-style-type: none"> Payments made under client service contracts should be adequately documented and supported by appropriate accounting records maintained by both the state agency and the contractor. 		11	1			
<ul style="list-style-type: none"> Financial reporting procedures and requirements should be clearly identified in the contract to ensure that contractors are able to record expenses by funding source. 		12				
<ul style="list-style-type: none"> State agencies should pay contractors for services in a timely manner (RCW 39.76.010). 		2			10	
Risk Assessment, Contract Monitoring and Audit						
Obtain the selected contract files and determine whether a risk assessment specific to the individual contract was completed. Compare to the contracting risk assessment matrix (appendix to this contracting review program). Conclude as to the sufficiency of the risk assessment.						12
Determine the extent of technical assistance provided for the contract. Determine whether the need for technical assistance has been fully assessed by the contracting manager. Indicators of need could arise for the risk assessment process, recurring questions or issues on the same subject matter, personnel turnover or new requirements tied to specific funds.			2	1	9	
Determine whether the contract files contain evidence that an individual or team member that has the necessary program expertise, fiscal expertise, authority to assess service,						

RESULTS- DEPARTMENT OF HEALTH		NOTES	C	NA	ND	X
quality and authority to assess compliance with contract provisions has carried out the contract monitoring responsibilities. Typical responsibilities of contract monitoring include:						
<ul style="list-style-type: none"> Comparing the actual performance of the contractor to the contract terms and agreed upon performance indicators. 			12			
<ul style="list-style-type: none"> Identifying all federal and state funds received by the contractor and coordinating with other funding sources, as necessary. 			2	1	9	
<ul style="list-style-type: none"> Verifying the contractor has fulfilled requirements of the contract before approving invoices for payment. 			10	1	1	
<ul style="list-style-type: none"> Comparing and tracking payments to the contractor against contract terms 			10	1	1	
<ul style="list-style-type: none"> Ensuring timely payment of invoices in accordance with state laws, the contract terms, and agency policies. 			11	1		
<ul style="list-style-type: none"> Ensuring that the contractor is not reimbursed more than once for client service delivery. 			7	3		2
<ul style="list-style-type: none"> Ensuring that any required audits are performed and received when due. 			7	4	1	
<ul style="list-style-type: none"> Evaluating audit findings and the status of corrective action. 			5	7		
<ul style="list-style-type: none"> Identifying and following any federal or state monitoring requirements. 			2	7	3	
Review the contract files for documentation that the following monitoring procedures were followed, if applicable.						
<ul style="list-style-type: none"> Periodic contractor reporting: Require the contractor to submit progress reports or other appropriate data or reports, based on pre-defined criteria, and review the contractor's reports for verification of services provided and adherence to the contract. Substandard performance should be identified and addressed timely and appropriately. 			11	1		
<ul style="list-style-type: none"> Agency review of audit reports: Review any required audit reports and audit work papers and ensure the contractor takes appropriate and timely corrective action. 			8	3	1	
<ul style="list-style-type: none"> Invoice reviews: Compare billings with the terms agreed upon in the contract. Ensure the costs being charged are within the contract parameters. 			11	1		
<ul style="list-style-type: none"> Onsite reviews and observations: Conduct onsite reviews, interview contractor staff to ascertain their understanding of program goals, interview clients about services received, review key systems and service documentation, review client case records, 			1	4	6	1

RESULTS- DEPARTMENT OF HEALTH		NOTES	C	NA	ND	X
review personnel records to ensure staff have appropriate credentials, review fiscal records, and observe operations whenever possible. The results of these visits should be documented in writing and compared with contract requirements.						
<ul style="list-style-type: none"> Other periodic contact with contractor: Maintain contact with the contractor to review progress on a regular basis. Good contract monitoring includes a continuous dialogue with the contractor. 			3		9	
<ul style="list-style-type: none"> Client surveys: Survey clients concerning contract service delivery and quality. Require the contractor to resolve complaints. Keep records of both the complaint and method of resolution. 			1	3	7	1
Specifically review the documentation regarding corrective actions taken by the agency in response to serious deficiencies identified during the contract monitoring process. Refer to the <i>Guide</i> for specific actions.			4	5	3	
Determine whether contract was audited. If no audit report is contained in the file, determine whether the decision to obtain or not obtain audit coverage is documented in the contract files.			3		2	7
Review the audit report for the type of opinions and findings.			6	6		
Determine whether decisions regarding audit findings are documented in the contract file. Conclude as to the appropriateness of the decisions regarding resolutions, corrective action plans and how questioned costs were handled.			6	6		
Other Matters Noted		(E)				

(A)- Three were competitively bid, one documented as sole source and eight not competitively bid.

(B)- Four contracts were executed after term of contract began.

(C)- One contract was noted to have a shorter termination clause on the source of funds than the pass through termination period.

(D)- Five of the eleven that complied with this provision defined allowable costs but did not tie that definition into the billing provisions.

(E)- There is significant potential overlap with services between the Ramsell contract and the DSHS contract re the Evergreen health insurance with the Lifelong AIDS Alliance.

INDIVIDUAL CONTRACT REVIEW RESULTS- DEPARTMENT OF CORRECTIONS

RESULTS- DEPARTMENT OF CORRECTIONS		NOTES	C	NA	ND	X
Pre-Contract Planning						
Determine the types of client services that are contracted and those that are performed by state agency personnel.						
For contracted client services, obtain documentation that supports the decision to contract. Determine whether the following were considered and decisions documented:						
<ul style="list-style-type: none"> Funding Availability: Adequate funding based on in-house budget projections must be verified by the contract manager. If funding is inadequate or non-existent, a contract cannot be awarded. 		(A)	4		2	7
<ul style="list-style-type: none"> When funding is available, the type of appropriation should be considered. For state agencies whose funds are appropriated for a fiscal year or biennial period, those funds cannot be disbursed for work performed in a subsequent period. Contract managers should also consider overhead expenses, such as costs for staff involvement with contract development, contract management, monitoring and internal fiscal processes, training, legal review of the contract, and dispute resolution. 			12		1	
<ul style="list-style-type: none"> Cost/Benefit Analysis: Before awarding a client service contract, contract managers should assess the need for contracting versus the cost of obtaining the desired results. In order to complete a cost/benefit analysis, contract managers should define what is expected from a contract to achieve the identified benefits 		(B)			13	
<ul style="list-style-type: none"> Available Public Resources: After the client service is defined, contract managers should determine the availability of qualified public resources before considering the use of contracted resources. 			5	4	4	
<ul style="list-style-type: none"> Legal Constraints to Contracting: Certain legal requirements should be carefully considered before contracting for client services, including whether state employees have traditionally performed the client service work, whether a contract would replace current classified employees (RCW 41.06.380), or whether there are any applicable collective bargaining agreements. 			5	4	4	
<ul style="list-style-type: none"> Contracting with Current or Former State Employees: Specific restrictions apply to contracting with current or former state employees. Contract managers should familiarize themselves with the requirements of Chapter 42.52 RCW prior to entering into any type of contracts. 			3	10		

RESULTS- DEPARTMENT OF CORRECTIONS					NOTES	C	NA	ND	X
<ul style="list-style-type: none"> Independent Contractor Relationship: An essential criterion in the use of client services is the independent entrepreneurial relationship between the contractor and the agency. Agencies could potentially be subject to payment of fines by the Internal Revenue Service (IRS) and the Social Security Administration (SSA), if a determination of "employee" status is made regarding the agency's contracts. 							13		
Pre-Contract Considerations									
Determine whether the contract files contain documentation that the following contracting aspects were considered prior to entering into contracts.									
<ul style="list-style-type: none"> Fiscal Considerations: Contract managers should determine the appropriate method of compensation and billing prior to entering into a contract. Prior to the contract award, the services should be analyzed to determine the most effective compensation method (i.e., cost reimbursement, fee for service, fixed price, or performance based). Ideally, the method selected will be one which best ensures delivery of services, encourages efficiencies and effectiveness of service, and provides the best value to state agencies and clients. Client service contracts should identify and document the method of compensation that will be used to pay the contractor for delivery of services. 					13				
<ul style="list-style-type: none"> Federally Funded Contracts: Contracts supported with federal funds, whether in whole or in part, are subject to federal requirements. Such requirements may be the result of federal statutory provisions, administrative regulations adopted by federal agencies, administrative guidelines distributed by federal agencies or contract award provisions. <u>When federal funds are involved, a determination should be made before a client service contract is written as to whether the contractor is a subrecipient or vendor. The administrative and management requirements for each differ significantly. The correct designation ensures compliance with applicable federal regulations and determines whether an audit is required of the contractor.</u> 							10	1	2

RESULTS- DEPARTMENT OF CORRECTIONS		NOTES	C	NA	ND	X
<ul style="list-style-type: none"> Audits: Contract managers should evaluate the coverage provided by existing and anticipated audits prior to entering into a contract. Additional audit requirements may be identified and written into the contract. When this is not practical, generic language should be included in the contract indicating an audit may be required. 					13	
Contractor Selection and Screening						
Determine whether the contract files contain documentation regarding the decision to use a competitive procurement process or whether a non-competitive, sole source selection method was used. Conclude as to the propriety of the selection method in light of the OFM guidelines.		(C)				
Determine whether the contract files contain documentation regarding how broadly the solicitation for proposals were advertised and whether procedures were sufficient to obtain an adequate number of responses.						
Determine whether the contract files contain documentation regarding whether OMWBE firms were afforded the maximum practical opportunity in the specific procurement.						
Determine whether the contract files contain evidence that appropriate contractor screening criteria and methods were used. Consider whether contractor is able to satisfy the following standards:						
<ul style="list-style-type: none"> The contractor has the appropriate experience, staffing, technical qualifications, and facilities (including any subcontractor arrangements). The contractor is able to comply with the proposed or required time of delivery or performance schedule. The contractor has adequate administrative and financial capability for performance. The contractor has a satisfactory record of integrity, judgment, and performance. The contractor is otherwise qualified and eligible to receive a contract under applicable laws and regulations. If the contract will be funded with federal money, the contractor cannot be on the federal suspended/debarred list, which identifies contractors who cannot be given federally funded contracts. 						
Determine whether the contractor provided evidence of the appropriate licenses,						

RESULTS- DEPARTMENT OF CORRECTIONS	NOTES	C	NA	ND	X
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registrations and certifications that would apply to the specific contracted services					
Contract Provisions					
Determine whether a model contract was used for the specific contract that substantially conforms to Appendix D of OFM's <i>Guide to Client Service Contracting</i> . Specifically review the contract for the following items:					
• Is the scope of work clearly written and defined?		13			
• Are amendments made in writing and executed prior to the expiration of the original contract?	(D)	2			11
• Whether performance measures are required and do they satisfy statutorily mandated outcomes?		9	4		
• Whether hold harmless and indemnification provisions are included?		13			
• Whether liability and industrial insurance provisions are adequate?	(E)	3			10
• Whether remedies and sanctions provisions are appropriate to safeguard the state's interests?		13			
• Whether contract termination provisions protect the state's rights?		13			
Determine whether the appropriate compensation method was selected and identified in the contract. The compensation should follow these general principles:					
• State agencies should pay no more than a reasonable and fair price for client services.		13			
• Payment to the contractor should be made according to the terms of the contract. A clear statement of work should be developed and should directly relate to the method of compensation in the contract.		13			
• The contract should identify the source and amount of funds. If the source of funds is federal, federal rules and regulations must be followed and may supersede state rules and regulations. Consult applicable federal regulations as necessary.		3			10
• Contracts should specify that payment will not be made for the same or similar services for the same client more than once (no duplicate payments). The costs of delivering a service or set of services may be distributed by the contractor to more than one contract or funding source. As a result, state agencies should consider		7	1		5

RESULTS- DEPARTMENT OF CORRECTIONS		NOTES	C	NA	ND	X
including provisions in the contract that hold the contractor liable for requesting double payment for the same unit of work.						
<ul style="list-style-type: none"> Contractors should have accounting methods and systems that are describable and auditable, as applicable to the circumstances. Contractors should comply with accounting measures and principles appropriate to the contractor's type of entity and as identified in the contract. 		13				
<ul style="list-style-type: none"> Payments made under client service contracts should be necessary and reasonable for the proper and efficient management of the client service program. The costs should be directly attributable to the specific work or the normal administration of the contract. 		12	1			
<ul style="list-style-type: none"> Payments made under client service contracts should be adequately documented and supported by appropriate accounting records maintained by both the state agency and the contractor. 		11	2			
<ul style="list-style-type: none"> Financial reporting procedures and requirements should be clearly identified in the contract to ensure that contractors are able to record expenses by funding source. 		9	4			
<ul style="list-style-type: none"> State agencies should pay contractors for services in a timely manner (RCW 39.76.010). 		(F) 3		10		
Risk Assessment, Contract Monitoring and Audit						
Obtain the selected contract files and determine whether a risk assessment specific to the individual contract was completed. Compare to the contracting risk assessment matrix (appendix to this contracting review program). Conclude as to the sufficiency of the risk assessment.						13
Determine the extent of technical assistance provided for the contract. Determine whether the need for technical assistance has been fully assessed by the contracting manager. Indicators of need could arise for the risk assessment process, recurring questions or issues on the same subject matter, personnel turnover or new requirements tied to specific funds.		5		8		
Determine whether the contract files contain evidence that an individual or team member that has the necessary program expertise, fiscal expertise, authority to assess service,						

RESULTS- DEPARTMENT OF CORRECTIONS		NOTES	C	NA	ND	X
quality and authority to assess compliance with contract provisions has carried out the contract monitoring responsibilities. Typical responsibilities of contract monitoring include:						
<ul style="list-style-type: none"> Comparing the actual performance of the contractor to the contract terms and agreed upon performance indicators. 			12		1	
<ul style="list-style-type: none"> Identifying all federal and state funds received by the contractor and coordinating with other funding sources, as necessary. 					13	
<ul style="list-style-type: none"> Verifying the contractor has fulfilled requirements of the contract before approving invoices for payment. 			11		2	
<ul style="list-style-type: none"> Comparing and tracking payments to the contractor against contract terms 			11		2	
<ul style="list-style-type: none"> Ensuring timely payment of invoices in accordance with state laws, the contract terms, and agency policies. 			10		3	
<ul style="list-style-type: none"> Ensuring that the contractor is not reimbursed more than once for client service delivery. 			3	9	1	
<ul style="list-style-type: none"> Ensuring that any required audits are performed and received when due. 					13	
<ul style="list-style-type: none"> Evaluating audit findings and the status of corrective action. 					13	
<ul style="list-style-type: none"> Identifying and following any federal or state monitoring requirements. 				13		
Review the contract files for documentation that the following monitoring procedures were followed, if applicable.						
<ul style="list-style-type: none"> Periodic contractor reporting: Require the contractor to submit progress reports or other appropriate data or reports, based on pre-defined criteria, and review the contractor's reports for verification of services provided and adherence to the contract. Substandard performance should be identified and addressed timely and appropriately. 			9	3	1	
<ul style="list-style-type: none"> Agency review of audit reports: Review any required audit reports and audit work papers and ensure the contractor takes appropriate and timely corrective action. 				1	12	
<ul style="list-style-type: none"> Invoice reviews: Compare billings with the terms agreed upon in the contract. Ensure the costs being charged are within the contract parameters. 			11		2	
<ul style="list-style-type: none"> Onsite reviews and observations: Conduct onsite reviews, interview contractor staff to ascertain their understanding of program goals, interview clients about services received, review key systems and service documentation, review client case records, 			8		5	

RESULTS- DEPARTMENT OF CORRECTIONS		NOTES	C	NA	ND	X
review personnel records to ensure staff have appropriate credentials, review fiscal records, and observe operations whenever possible. The results of these visits should be documented in writing and compared with contract requirements.						
<ul style="list-style-type: none"> Other periodic contact with contractor: Maintain contact with the contractor to review progress on a regular basis. Good contract monitoring includes a continuous dialogue with the contractor. 			11		2	
<ul style="list-style-type: none"> Client surveys: Survey clients concerning contract service delivery and quality. Require the contractor to resolve complaints. Keep records of both the complaint and method of resolution. 			8	1	4	
Specifically review the documentation regarding corrective actions taken by the agency in response to serious deficiencies identified during the contract monitoring process. Refer to the <i>Guide</i> for specific actions.			7	2	4	
Determine whether contract was audited. If no audit report is contained in the file, determine whether the decision to obtain or not obtain audit coverage is documented in the contract files.					13	
Review the audit report for the type of opinions and findings.					13	
Determine whether decisions regarding audit findings are documented in the contract file. Conclude as to the appropriateness of the decisions regarding resolutions, corrective action plans and how questioned costs were handled.					13	
Other Matters Noted						

(A)- The seven exceptions noted actually comply with regards to documenting funding availability, but the documentation reflects that the contract amount is slightly in excess of funding availability. The presumption is that the funding shortfall would be made up in other areas.

(B)- Cost benefit of contracting was not specifically documented but the other planning documentation of several other contracts was very well documented.

(C)- Eight cases not competitively bid and no other documentation, 4 were competitively bid with documentation and one was not documented.

(D)- Eleven contracts were executed after term of contract began.

(E)- The exceptions related to liability insurance provisions only, no industrial insurance exceptions.

(F)- Payment files for ten contracts were not provided.

INDIVIDUAL CONTRACT REVIEW RESULTS- COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

RESULTS- COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT		NOTES	C	NA	ND	X
Pre-Contract Planning						
Determine the types of client services that are contracted and those that are performed by state agency personnel.						
For contracted client services, obtain documentation that supports the decision to contract. Determine whether the following were considered and decisions documented:						
<ul style="list-style-type: none"> Funding Availability: Adequate funding based on in-house budget projections must be verified by the contract manager. If funding is inadequate or non-existent, a contract cannot be awarded. 		14			1	
<ul style="list-style-type: none"> When funding is available, the type of appropriation should be considered. For state agencies whose funds are appropriated for a fiscal year or biennial period, those funds cannot be disbursed for work performed in a subsequent period. Contract managers should also consider overhead expenses, such as costs for staff involvement with contract development, contract management, monitoring and internal fiscal processes, training, legal review of the contract, and dispute resolution. 		14			1	
<ul style="list-style-type: none"> Cost/Benefit Analysis: Before awarding a client service contract, contract managers should assess the need for contracting versus the cost of obtaining the desired results. In order to complete a cost/benefit analysis, contract managers should define what is expected from a contract to achieve the identified benefits 				1	14	
<ul style="list-style-type: none"> Available Public Resources: After the client service is defined, contract managers should determine the availability of qualified public resources before considering the use of contracted resources. 				15		
<ul style="list-style-type: none"> Legal Constraints to Contracting: Certain legal requirements should be carefully considered before contracting for client services, including whether state employees have traditionally performed the client service work, whether a contract would replace current classified employees (RCW 41.06.380), or whether there are any applicable collective bargaining agreements. 				5	10	
<ul style="list-style-type: none"> Contracting with Current or Former State Employees: Specific restrictions apply to contracting with current or former state employees. Contract managers should familiarize themselves with the requirements of Chapter 42.52 RCW prior to entering into any type of contracts. 				15		

RESULTS- COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT		NOTES	C	NA	ND	X
<ul style="list-style-type: none"> Independent Contractor Relationship: An essential criterion in the use of client services is the independent entrepreneurial relationship between the contractor and the agency. Agencies could potentially be subject to payment of fines by the Internal Revenue Service (IRS) and the Social Security Administration (SSA), if a determination of "employee" status is made regarding the agency's contracts. 				15		
Pre-Contract Considerations						
Determine whether the contract files contain documentation that the following contracting aspects were considered prior to entering into contracts.						
<ul style="list-style-type: none"> Fiscal Considerations: Contract managers should determine the appropriate method of compensation and billing prior to entering into a contract. Prior to the contract award, the services should be analyzed to determine the most effective compensation method (i.e., cost reimbursement, fee for service, fixed price, or performance based). Ideally, the method selected will be one which best ensures delivery of services, encourages efficiencies and effectiveness of service, and provides the best value to state agencies and clients. Client service contracts should identify and document the method of compensation that will be used to pay the contractor for delivery of services. 			15			
<ul style="list-style-type: none"> Federally Funded Contracts: Contracts supported with federal funds, whether in whole or in part, are subject to federal requirements. Such requirements may be the result of federal statutory provisions, administrative regulations adopted by federal agencies, administrative guidelines distributed by federal agencies or contract award provisions. When federal funds are involved, a determination should be made before a client service contract is written as to whether the contractor is a subrecipient or vendor. The administrative and management requirements for each differ significantly. The correct designation ensures compliance with applicable federal regulations and determines whether an audit is required of the contractor. 		(A)	6	1	1	7

RESULTS- COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT		NOTES	C	NA	ND	X
<ul style="list-style-type: none"> Audits: Contract managers should evaluate the coverage provided by existing and anticipated audits prior to entering into a contract. Additional audit requirements may be identified and written into the contract. When this is not practical, generic language should be included in the contract indicating an audit may be required. 			12		3	
Contractor Selection and Screening						
Determine whether the contract files contain documentation regarding the decision to use a competitive procurement process or whether a non-competitive, sole source selection method was used. Conclude as to the propriety of the selection method in light of the OFM guidelines.		(B)	13	1	1	
Determine whether the contract files contain documentation regarding how broadly the solicitation for proposals were advertised and whether procedures were sufficient to obtain an adequate number of responses.				9	6	
Determine whether the contract files contain documentation regarding whether OMWBE firms were afforded the maximum practical opportunity in the specific procurement.				9	6	
Determine whether the contract files contain evidence that appropriate contractor screening criteria and methods were used. Consider whether contractor is able to satisfy the following standards:			10		5	
<ul style="list-style-type: none"> The contractor has the appropriate experience, staffing, technical qualifications, and facilities (including any subcontractor arrangements). The contractor is able to comply with the proposed or required time of delivery or performance schedule. The contractor has adequate administrative and financial capability for performance. The contractor has a satisfactory record of integrity, judgment, and performance. The contractor is otherwise qualified and eligible to receive a contract under applicable laws and regulations. If the contract will be funded with federal money, the contractor cannot be on the federal suspended/debarred list, which identifies contractors who cannot be given federally funded contracts. 			10 7 8 8 9 8	5 2 6 7 7 6 1 6		
Determine whether the contractor provided evidence of the appropriate licenses,			7	2	6	

RESULTS- COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT	NOTES	C	NA	ND	X
registrations and certifications that would apply to the specific contracted services					
Contract Provisions					
Determine whether a model contract was used for the specific contract that substantially conforms to Appendix D of OFM's <i>Guide to Client Service Contracting</i> . Specifically review the contract for the following items:	(C)				
• Is the scope of work clearly written and defined?		14			
• Are amendments made in writing and executed prior to the expiration of the original contract?	(D)	4			10
• Whether performance measures are required and do they satisfy statutorily mandated outcomes?		9	5		
• Whether hold harmless and indemnification provisions are included?		14			
• Whether liability and industrial insurance provisions are adequate?	(E)	6			8
• Whether remedies and sanctions provisions are appropriate to safeguard the state's interests?		14			
• Whether contract termination provisions protect the state's rights?		14			
Determine whether the appropriate compensation method was selected and identified in the contract. The compensation should follow these general principles:					
• State agencies should pay no more than a reasonable and fair price for client services.		14			
• Payment to the contractor should be made according to the terms of the contract. A clear statement of work should be developed and should directly relate to the method of compensation in the contract.		14			
• The contract should identify the source and amount of funds. If the source of funds is federal, federal rules and regulations must be followed and may supersede state rules and regulations. Consult applicable federal regulations as necessary.		10	1		3
• Contracts should specify that payment will not be made for the same or similar services for the same client more than once (no duplicate payments). The costs of delivering a service or set of services may be distributed by the contractor to more than one contract or funding source. As a result, state agencies should consider		12			2

RESULTS- COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT		NOTES	C	NA	ND	X
including provisions in the contract that hold the contractor liable for requesting double payment for the same unit of work.						
<ul style="list-style-type: none"> Contractors should have accounting methods and systems that are describable and auditable, as applicable to the circumstances. Contractors should comply with accounting measures and principles appropriate to the contractor's type of entity and as identified in the contract. 		14				
<ul style="list-style-type: none"> Payments made under client service contracts should be necessary and reasonable for the proper and efficient management of the client service program. The costs should be directly attributable to the specific work or the normal administration of the contract. 		13			1	
<ul style="list-style-type: none"> Payments made under client service contracts should be adequately documented and supported by appropriate accounting records maintained by both the state agency and the contractor. 		13			1	
<ul style="list-style-type: none"> Financial reporting procedures and requirements should be clearly identified in the contract to ensure that contractors are able to record expenses by funding source. 		14				
<ul style="list-style-type: none"> State agencies should pay contractors for services in a timely manner (RCW 39.76.010). 		(F) 5			9	
Risk Assessment, Contract Monitoring and Audit						
Obtain the selected contract files and determine whether a risk assessment specific to the individual contract was completed. Compare to the contracting risk assessment matrix (appendix to this contracting review program). Conclude as to the sufficiency of the risk assessment.		1				14
Determine the extent of technical assistance provided for the contract. Determine whether the need for technical assistance has been fully assessed by the contracting manager. Indicators of need could arise for the risk assessment process, recurring questions or issues on the same subject matter, personnel turnover or new requirements tied to specific funds.		2			13	
Determine whether the contract files contain evidence that an individual or team member that has the necessary program expertise, fiscal expertise, authority to assess service,						

RESULTS- COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT	NOTES	C	NA	ND	X
quality and authority to assess compliance with contract provisions has carried out the contract monitoring responsibilities. Typical responsibilities of contract monitoring include:					
• Comparing the actual performance of the contractor to the contract terms and agreed upon performance indicators.		10		5	
• Identifying all federal and state funds received by the contractor and coordinating with other funding sources, as necessary.		4		11	
• Verifying the contractor has fulfilled requirements of the contract before approving invoices for payment.		5		8	
• Comparing and tracking payments to the contractor against contract terms		5		8	
• Ensuring timely payment of invoices in accordance with state laws, the contract terms, and agency policies.		11		4	
• Ensuring that the contractor is not reimbursed more than once for client service delivery.		5	2	8	
• Ensuring that any required audits are performed and received when due.		14		1	
• Evaluating audit findings and the status of corrective action.		14		1	
• Identifying and following any federal or state monitoring requirements.		5	9	1	
Review the contract files for documentation that the following monitoring procedures were followed, if applicable.					
• Periodic contractor reporting: Require the contractor to submit progress reports or other appropriate data or reports, based on pre-defined criteria, and review the contractor's reports for verification of services provided and adherence to the contract. Substandard performance should be identified and addressed timely and appropriately.		10		5	
• Agency review of audit reports: Review any required audit reports and audit work papers and ensure the contractor takes appropriate and timely corrective action.		14		1	
• Invoice reviews: Compare billings with the terms agreed upon in the contract. Ensure the costs being charged are within the contract parameters.		8		7	
• Onsite reviews and observations: Conduct onsite reviews, interview contractor staff to ascertain their understanding of program goals, interview clients about services received, review key systems and service documentation, review client case records,		9		6	

RESULTS- COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT	NOTES	C	NA	ND	X
review personnel records to ensure staff have appropriate credentials, review fiscal records, and observe operations whenever possible. The results of these visits should be documented in writing and compared with contract requirements.					
<ul style="list-style-type: none"> Other periodic contact with contractor: Maintain contact with the contractor to review progress on a regular basis. Good contract monitoring includes a continuous dialogue with the contractor. 	4	1	10		
<ul style="list-style-type: none"> Client surveys: Survey clients concerning contract service delivery and quality. Require the contractor to resolve complaints. Keep records of both the complaint and method of resolution. 		4	11		
Specifically review the documentation regarding corrective actions taken by the agency in response to serious deficiencies identified during the contract monitoring process. Refer to the <i>Guide</i> for specific actions.	3	6	6		
Determine whether contract was audited. If no audit report is contained in the file, determine whether the decision to obtain or not obtain audit coverage is documented in the contract files.	14		1		
Review the audit report for the type of opinions and findings.	14		1		
Determine whether decisions regarding audit findings are documented in the contract file. Conclude as to the appropriateness of the decisions regarding resolutions, corrective action plans and how questioned costs were handled.	4	10	1		
Other Matters Noted					

(A)- The seven exceptions noted relate only to documenting the subrecipient relationship in the contract.

(B)- Six cases use an application process.

(C)- One contract was not provided.

(D)- Eight contracts were executed after term of contract began. Two contracts were covered by contract language but had large invoices a few days after contract execution, evidencing circumvention of beginning work before and executed contract.

(E)- Seven exceptions related to liability provisions only, one related to both.

(F)- Payment files for nine contracts were not provided.